

SCHEDULES

SCHEDULE 13

MINOR AND CONSEQUENTIAL AMENDMENTS

The Sewerage (Scotland) Act 1968 (c. 47)

- 75 (1) The Sewerage (Scotland) Act 1968 shall be amended in accordance with this paragraph.
- (2) In section 1 (duty of local authority to provide for sewerage in their area)—
- (a) in subsection (1), for “every local authority” substitute “each of the sewerage authorities”;
 - (b) for subsection (2) substitute—
 - “(2) Without prejudice to the generality of subsection (1) above—
 - (a) a sewerage authority shall, subject to paragraph (b) below, take their public sewers to such point or points as will enable the owners of premises which are to be served by the sewers to connect their drains or private sewers with the public sewers at reasonable cost;
 - (b) where the sewerage authority have agreed with some other person (in this section referred to as the “private provider”) that he will take a private sewer to such point or points as will enable owners to make such connection as is mentioned in paragraph (a) above, that paragraph shall not apply while the agreement subsists.”;
 - (c) in subsection (3), for “local” substitute “sewerage”;
 - (d) in subsection (4)—
 - (i) for “public sewers” substitute “a public sewer, or under an agreement such as is mentioned in paragraph (b) of subsection (2) above the private sewer of a private provider.”;
 - (ii) for “local authority concerned” substitute “sewerage authority, or as the case may be private provider, concerned”;
 - (iii) for “local authority”, where those words secondly occur, substitute “authority or private provider”;
 - (e) after subsection (4) add—
 - “(5) The Secretary of State may by regulations make provision as respects the procedure to be followed as respects a request under subsection (4) above.
 - (6) The power to make regulations under subsection (5) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.

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- (3) In section 2 (maintenance of public sewers and other works)—
- (a) for “every local authority” substitute “each of the sewerage authorities”; and
 - (b) after “this Act” insert “or of Part II of the Local Government etc. (Scotland) Act 1994”.
- (4) In section 3 (construction etc. of public sewers and public sewage treatment works)—
- (a) in each of subsections (1), (2) and (4), for “local”, in each place it occurs, substitute “sewerage”; and
 - (b) in subsection (3), after “notices”—
 - (i) where it secondly occurs, insert “served by a sewerage authority”; and
 - (ii) where it thirdly occurs, insert “served by a local authority”.
- (5) In section 4 (power of local authority to close or alter public sewers etc.)—
- (a) for “local” substitute “sewerage”; and
 - (b) after “this Act” insert “or of Part II of the Local Government etc. (Scotland) Act 1994”.
- (6) In each of sections 6 (functions outwith area of local authority), 8(1) (agreements as to provision of sewers etc. for new premises) and 9 (loan of temporary sanitary conveniences), for “local”, wherever it occurs, substitute “sewerage”.
- (7) In section 7 (agreements between local authorities and the Secretary of State as respects provision, management, maintenance or use of sewers or drains to take water from surface of trunk road etc.)—
- (a) in subsection (1)—
 - (i) for “the Secretary of State” substitute “a roads authority”;
 - (ii) for “local” substitute “sewerage”; and
 - (iii) for “trunk roads” substitute “a road”;
 - (b) in subsection (2)—
 - (i) for “the Secretary of State” substitute “a roads authority”; and
 - (ii) for “local”, in both places where it occurs, substitute “sewerage”;
 - (c) in subsection (3)—
 - (i) for “The Secretary of State or a local” substitute “A roads authority or a sewerage” and
 - (ii) for “local”, where it secondly occurs, substitute “sewerage”; and
 - (d) at the end add—

“(3A) In the foregoing provisions of this section, “roads authority” has the same meaning as in the Roads (Scotland) Act 1984.”.
- (8) In section 11 (keeping of map showing public sewers etc.)—
- (a) for subsection (1) substitute—

“(1) A sewerage authority shall keep deposited at their principal office a map showing and distinguishing so far as is reasonably practicable all sewers, drains and sewage treatment works which are vested in them by virtue of this Act or of Part II of the Local Government etc. (Scotland) Act 1994 or in respect of which they have made a determination under section 3A(2) of this Act; and the authority shall provide reasonable facilities at that office for inspection of the

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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 the authority may determine.”;

- (b) in subsection (2), for “local” substitute “sewerage”; and
- (c) at the end add—

“(3) A sewerage authority shall keep deposited at such of their offices, other than their principal office, as they consider appropriate, a copy relevant to the office in question of part of the map mentioned in subsection (1) above; and the authority 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, they do in relation to the map mentioned in that subsection at their principal office.

(4) For the purposes of subsection (3) 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 the sewerage authority to be appropriate having regard to the geographical location of that office.”.

- (9) In each of sections 12(1), (3), (4), (6), (7) and (8) (rights of owners and occupiers to connect with and drain into public sewers etc.), for “local”, wherever it occurs, substitute “sewerage”.
- (10) In section 13 (rights of owners and occupiers to connect with and drain into public sewers etc. of other authority)—
 - (a) in each of subsections (1) and (2), for “local”, wherever it occurs, substitute “sewerage”; and
 - (b) in paragraph (a) of the proviso to subsection (1), after “effect to the” insert “sewerage”.
- (11) In section 14 (direction by local authority as to manner of construction of works)—
 - (a) in subsection (1), for “the local” substitute “a sewerage”;
 - (b) in each of subsections (2), (4) and (6), for “local” substitute “sewerage”.
- (12) In section 15 (owner or occupier to remedy defects in drains and other works)—
 - (a) in subsection (1)—
 - (i) after “local authority” insert “or a sewerage authority”;
 - (ii) after “vested in the” insert “sewerage”; and
 - (iii) for “they” substitute “the authority in question”;
 - (b) in subsection (3), for “local authority”—
 - (i) where those words first occur, substitute “authority which served the notice”; and
 - (ii) where they occur in the proviso, substitute “authority in question”; and
 - (c) in subsection (4)—
 - (i) for the words from “the medical” to “local authority” substitute “a local authority or a sewerage authority that immediate action is required to remedy a defect”; and
 - (ii) in paragraph (c), after “authority” insert “which served the notice”.
- (13) In section 16 (vesting of sewers and other works)—

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- (a) in subsection (1)—
 - (i) for the words from the beginning to “vest in them” substitute “There shall vest in a sewerage authority”; and
 - (ii) for paragraph (c) substitute—
 - “(c) subject to any determination notified under subsection (2) of section 3A of this Act, all private sewers connecting with their sewers or sewage treatment works;
 - (cc) where they enter into an agreement under subsection (2) of the said section 3A or under subsection (2) of section 16A of this Act (and subject to the terms of that agreement), all private sewers, or as the case may be parts of sewers, to which the agreement relates;”;
 - (b) in subsection (2), for “the commencement of this section shall vest in the local” substitute “1st April 1996 shall vest in the sewerage”; and
 - (c) in subsection (3), for “local” substitute “sewerage”.
- (14) After section 16 insert—

“16A Vesting of certain private sewers

- (1) Subject to any agreement entered into under subsection (2) below, there shall vest in a person authorised, under subsection (1) of section 3A of this Act, by a sewerage authority to construct a sewer not connecting with their sewers or sewage treatment works the sewer constructed; and any sewer vested in a person by this subsection or by a determination under subsection (2) of that section shall be his property and he solely responsible for its management, maintenance and renewal.
 - (2) Notwithstanding subsection (1) above, the sewerage authority may, on such terms and conditions as they think fit, at any time enter into an agreement under which the sewer, or any part of it, shall vest in them.”.
- (15) In each of sections 17(1), (2), (3) and (4) (taking over of private sewage treatment works), 24(1) and (2) (right to discharge into public sewers), 25 (meaning of new discharge), 26 (new discharge only with consent), 27 (1) and (4)(a) (procedure on application for consent to new discharge), 28(1) (time to dispose of application), 29(1) (decision on application), 30(1) (intimation of decision), 31 (appeal against refusals and conditions), 32(1) and (2) (review of consents, conditions and refusals), 33(2) (disputes as to meaning of “existing discharge”), 34 (right to continue existing discharge), 35 (furnishing of information), 36(1) and (2) (review of continuation of existing discharge) and 37(1), (3), (4) and (6) (agreements as respects trade premises), for “local”, wherever it occurs, substitute “sewerage”.
- (16) Section 18 (expenses of local authorities and dissolution of drainage districts) shall cease to have effect.
- (17) In section 20 (compensation for loss etc, resulting from exercise of powers under Part I)—
- (a) in subsection (1), for “local” substitute “sewerage”;
 - (b) in subsection (3), for “12” substitute “24”;

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- (c) in subsection (4), for “local” in both places where it occurs substitute “sewerage”; and
- (d) at the end add—

“(5) The foregoing provisions of this section shall apply to a person constructing a sewer by virtue of having been authorised to do so under section 3A(1), as they would apply to a sewerage authority constructing a sewer under section 3(1), of this Act.”.

- (18) In section 21(1) (buildings not to interfere with sewers)—

- (a) for “local” substitute “sewerage”;
- (b) after “erected” insert “or embankment constructed”; and
- (c) at the end add “or in respect of which they have made a determination under section 3A(2) of this Act”.

- (19) In section 22 (protection for statutory undertakers)—

- (a) in each of subsections (1) and (3), for “local” substitute “sewerage”; and
- (b) after subsection (2) insert—

“(2A) The foregoing provisions of this section shall apply to a person constructing a sewer by virtue of having been authorised to do so under section 3A(1), as they would apply to a sewerage authority constructing a sewer under section 3(1), of this Act.”.

- (20) In section 23 (restriction on working minerals), for the words from “any public” to the end substitute “—

- (a) any public sewers, public sewage treatment works or public drains; and
- (b) any sewers, sewage treatment works or drains not vested in a sewerage authority but forming (or forming part of) any such system as is mentioned in section 98(1)(b) of the Local Government etc. (Scotland) Act 1994,

to which they do not already apply, with the substitution—

- (i) for references to the railway, of references to the sewers, works or drains; and
- (ii) for references to the company, of references to the sewerage authority, or as the case may be to the person other than a sewerage authority, in whom the sewers, works or drains are vested.”.

- (21) In section 38 (power to extend certain provisions to certain effluents), in each of subsections (1) and (3), for “local” substitute “sewerage”.

- (22) In each of sections 39 (right to sewage), 41 (breaking open of roads, etc.), 42 (execution of works for authorities by other persons), 44 (power to require information as to ownership etc. of premises) and 45(1) (production of plans and furnishing of information), for “local”, wherever it occurs, substitute “sewerage”.

- (23) Sections 40 (powers of local authorities as to research and publicity) and 47 (recovery of expenses by local authority) shall cease to have effect.

- (24) In section 48 (powers of entry)—

- (a) in subsection (1)—

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- (i) for “an authorised officer of a local authority” substitute “any person duly authorised by a sewerage authority (whether or not an employee of the authority and whether such authorisation is special or general)”;
 - (ii) in paragraph (d), at the end add “or which may be authorised by them under section 3A of this Act”;
 - (iii) after paragraph (d) insert—
 - “(dd) inspecting, maintaining, repairing, cleansing, emptying, ventilating or renewing any sewer which is not a public sewer but forms part of any such system as is mentioned in section 98(1)(b) of the Local Government etc. (Scotland) Act 1994;” and
 - (iv) in paragraph (f), for the words from “the sewers” to the end substitute “—
 - (i) public sewers or public sewage treatment works; or
 - (ii) sewers or sewage treatment works not vested in a sewerage authority but forming (or forming part of) any such system as is mentioned in the said section 98(1)(b).”;
 - (b) in subsection (3)—
 - (i) for “entering” substitute “entry is made”; and
 - (ii) for “local authority” substitute “the authorised person, or the sewerage authority on his behalf;” and
 - (c) in subsection (10), for “local authority” substitute “person who carried it out”.
- (25) In section 51 (procedure on appeal to Secretary of State)—
- (a) in each of subsections (2) and (4), for “local” substitute “sewerage”; and
 - (b) after subsection (6) add—
 - “(7) The Secretary of State may by regulations make further provision as respects the procedure to be followed in any such appeal.
 - (8) The power to make regulations under subsection (7) above shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.
- (26) Section 52 (exemption from stamp duties) shall cease to have effect.
- (27) In each of sections 53 (notices etc. to be in writing) and 55(2) (application of the Act to Crown premises), for “local” substitute “sewerage”.
- (28) In section 59(1) (interpretation)—
- (a) after the definition of “appointed day” insert—
 - ““area”, in relation to a sewerage authority, shall be construed in accordance with section 62 of the Local Government etc. (Scotland) Act 1994;”;
 - (b) the definitions of “authorised officer” and “local authority” shall cease to have effect;

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- (c) in the definition of “private sewage treatment works”, for “local” substitute “sewerage”;
- (d) in the definition of “public drain”, at the end add “or a sewerage authority”;
- (e) in each of the definitions of “public sewage treatment works” and “public sewer”, for “local” substitute “sewerage”;
- (f) after the definition of “sewer” insert—
 - ““sewerage authority” shall be construed in accordance with section 62 of the Local Government etc. (Scotland) Act 1994;”;
- (g) the definition of “trunk road” shall cease to have effect.