
Status: This is the original version (as it was originally enacted).

SCHEDULE 1

(introduced by sections 10 and 14)

MATTERS TO BE INCLUDED IN RIVER BASIN MANAGEMENT PLANS

PART 1

MATTERS TO BE INCLUDED IN EVERY PLAN

- 1 A summary of the characterisation of the river basin district carried out under section 5.
- 2 A summary of significant pressures, and the impact of human activity, on the status of the water environment within the district.
- 3 A summary of the register of protected areas maintained under section 7, including information sufficient to identify each protected area within the district.
- 4 Information as to the arrangements for monitoring water status under section 8 and as to the results of such monitoring.
- 5 A list of the environmental objectives set under section 9 for every body of water in the district.
- 6 A summary of the programme of measures prepared under section 9 to be applied to achieve those objectives.
- 7 Information as to any sub-basin plan.
- 8 A non-technical summary of the information provided under paragraphs 1 to 7.
- 9 A summary of—
 - (a) the steps taken under subsections (3) to (6) of section 11 in relation to the plan, and
 - (b) changes made to the plan in light of—
 - (i) the views and representations received on it, and
 - (ii) any advice given by a River Basin District Advisory Group under section 17(2).
- 10 Information as to—
 - (a) SEPA, and
 - (b) every responsible authority and regulator (within the meaning of schedule 2) having functions in relation to the river basin district.
- 11 The arrangements for making available to the public documents and information relevant to the preparation and implementation of the plan.

PART 2

ADDITIONAL MATTERS TO BE INCLUDED IN REVISED PLANS

- 12 A summary of the changes which have been made as compared with the previous plan.
- 13 An assessment of the progress made towards the achievement of the environmental objectives set under section 9, including the results of monitoring under section 8 and reasons for any failure to achieve any such objective.

- 14 A summary of any measures included in the programme of measures prepared under section 9 in relation to the previous plan which were not applied, with reasons for the non-application.
- 15 A summary of any measures additional to those referred to in paragraph 14 which were applied to achieve the environmental objectives set under section 9.

SCHEDULE 2

(introduced by section 20)

CONTROLLED ACTIVITIES REGULATIONS: PARTICULAR PURPOSES

PART 1

LIST OF PURPOSES

Controlled activities

- 1 (1) Further defining the activities specified in subsection (3) of section 20.
- (2) Modifying the definitions of those activities.
- (3) Specifying other activities as controlled activities.

Regulators

- 2 (1) Determining the authorities (whether SEPA or any other public or local authority or the Scottish Ministers) by whom functions conferred by the regulations for or in connection with regulating controlled activities are to be exercisable (such authorities being referred to in this schedule as “regulators”).
- (2) Securing that such functions are exercised with a view to achieving the environmental objectives set out in river basin management plans.
- (3) Specifying any other purposes for which any such functions are to be exercisable.
- (4) Enabling the Scottish Ministers to give directions (whether general or specific) with which regulators are to comply, or guidance to which regulators are to have regard, in exercising functions under the regulations, including—
- (a) directions providing for any functions exercisable by one regulator to be exercisable instead by another,
 - (b) directions given for the purpose of the implementation of any obligations of the United Kingdom under the Community Treaties or under any international agreement to which the United Kingdom is a party,
 - (c) directions relating to the exercise of any function in a particular case or description of case,
 - (d) directions providing for any matter to which the directions relate to be determined, in such manner (if any) as the directions may specify, by a person other than the Scottish Ministers.

Regulation of controlled activities

- 3 (1) Prohibiting persons from carrying on, or from causing or permitting others to carry on, any controlled activity, or from carrying on any such activity except so far as it is—
- (a) authorised by or under, and
 - (b) carried on in accordance with,
- the regulations.
- (2) Specifying rules of general application (“general binding rules”) subject to which controlled activities may be carried on.
- (3) Treating as authorised the carrying on of controlled activities which are subject to general binding rules.
- (4) Enabling regulators to authorise the carrying on of controlled activities (whether or not the carrying on of any such activities is subject to general binding rules)—
- (a) by way of a licence granted under the regulations (a “water use licence”),
 - (b) subject to a requirement to register the carrying on of the activity (“registration”).

Notification of proposals to carry on controlled activities

- 4 (1) Requiring persons proposing to carry on controlled activities to notify regulators of the proposals.
- (2) Prescribing the form and content of notifications and otherwise regulating the procedure for notifying proposed controlled activities.
- (3) Requiring regulators to advise persons notifying them of proposals to carry on controlled activities as to whether the carrying on of the activities requires to be authorised by regulators under the regulations in pursuance of paragraph 3(4) and, if so, the type of authorisation required.

Water use licences

- 5 (1) Prescribing the form and content of applications for water use licences.
- (2) Specifying restrictions or other requirements in connection with applications for, or the grant of, licences.
- (3) Otherwise regulating the procedure to be followed in connection with applications for licences and the determination of applications.
- (4) Enabling licence applications to be treated as notifications in specified circumstances.
- (5) Prescribing the contents of licences.
- (6) Authorising licences to be granted subject to conditions imposed by regulators.
- (7) Enabling the granting of licences authorising the carrying on of more than one controlled activity.
- (8) Securing that licences have effect subject to specified conditions.

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- (9) Requiring licences or the conditions to which they are subject to be reviewed by regulators (whether periodically or in specified circumstances).
- (10) Authorising or requiring the variation of licences or such conditions by regulators (whether on applications made by holders of licences or otherwise).
- (11) Regulating the transfer and surrender of licences.
- (12) Authorising the suspension of licences by regulators.
- (13) Authorising the revocation of licences by regulators.
- (14) Authorising the imposition by regulators of requirements with respect to the taking of preventive or remedial action (by holders of licences or other persons) in connection with the surrender and revocation of licences.

Registration

- 6 (1) Regulating the procedure for registration required by provision made in pursuance of paragraph 3(4)(b), including variation and revocation of registrations.
- (2) Specifying restrictions or other requirements in connection with registration.

Charging schemes

- 7 (1) Authorising, or authorising regulators to make, vary and revoke schemes for, the charging by regulators of fees or other charges—
 - (a) in respect of notifications,
 - (b) in respect of, or in respect of applications for—
 - (i) the grant of a licence,
 - (ii) the variation of a licence or the conditions to which it is subject,
 - (iii) the transfer, surrender or revocation of a licence,
 - (iv) registration,
 - (c) in respect of the subsistence of a licence or registration,
 - (d) in respect of other specified matters.
- (2) Regulating the procedure for making, varying and revoking such schemes.

Publicity and consultation

- 8 Securing that—
 - (a) publicity is given to specified matters,
 - (b) regulators maintain registers of specified matters (but excepting information which under the regulations is, or is determined to be, commercially confidential and subject to any other exceptions specified in the regulations) which are open to public inspection,
 - (c) copies of entries in such registers, or of specified documents, may be obtained by members of the public.
- 9 Requiring or authorising regulators to carry out consultation in connection with the exercise of any of their functions (including consultation on any guidance they propose to issue in connection with the exercise of those functions), and providing for them to take into account representations made to them on consultation.

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Enforcement and offences

- 10 (1) Conferring on regulators functions with respect to the monitoring and inspection of the carrying on of controlled activities, including—
- (a) power to take samples or to make copies of information,
 - (b) power to arrange for preventive or remedial action to be taken at the expense of those carrying on the controlled activities.
- (2) Authorising regulators to appoint suitable persons to exercise any such functions and conferring powers (such as those specified in section 108(4) of the Environment Act 1995 (c. 25)) on persons so appointed.
- 11 (1) Authorising regulators to serve on any persons carrying on controlled activities (whether or not the carrying on of those activities is authorised by or under the regulations) notices, including notices requiring them—
- (a) to notify the controlled activities being carried on by them,
 - (b) to take preventive or remedial action at their own expense in respect of contraventions, actual or potential, of—
 - (i) in relation to activities being carried on under water use licences, any conditions to which the licences are subject,
 - (ii) in relation to activities being carried on subject to general binding rules, those rules,
 - (c) in relation to activities being carried on subject to registration, to take preventive or remedial action at their own expense where the activities are being carried on otherwise than as described in the registration,
 - (d) to provide such financial security as the regulators serving the notices consider appropriate pending the taking of preventive or remedial action required by virtue of paragraph (b) or (c),
 - (e) to take steps to remove imminent risks of serious adverse impacts on the status of the water environment (whether or not arising from any such contraventions),
 - (f) to stop the carrying on of controlled activities and to take such preventive or remedial action as may be specified in the notice.
- (2) Providing for the enforcement of such notices by civil proceedings.
- 12 Creating offences and dealing with matters relating to such offences, including—
- (a) the provision of defences, and
 - (b) evidentiary matters.
- 13 Enabling, where a person has been convicted of an offence under the regulations—
- (a) a court dealing with that person for the offence to order the taking of remedial action (in addition to or instead of imposing any punishment),
 - (b) a regulator to arrange for such action at that person's expense.

Appeals

- 14 (1) Conferring rights of appeal in respect of decisions made, notices served or other things done (or omitted to be done) under the regulations.
- (2) Making provision for (or for the determination of) matters relating to the making, considering and determination of such appeals (including provision for or in connection with the holding of inquiries or hearings).

General

- 15 (1) Making provision which, subject to any modifications that the Scottish Ministers consider appropriate, corresponds or is similar to any provision made by any of sections 157, 158 and 160 of the Environmental Protection Act 1990 (c. 43).
- (2) Making provision about the application of the regulations to the Crown.

PART 2

SUPPLEMENTARY PROVISIONS

Particular types of controlled activity

- 16 The regulations may provide for specified provisions of the regulations to have effect in relation only to—
- (a) specified controlled activities,
 - (b) the carrying on of controlled activities in specified circumstances, or
 - (c) the carrying on of controlled activities by specified persons or descriptions of persons.

General binding rules

- 17 General binding rules may—
- (a) impose conditions or requirements,
 - (b) prescribe standards or objectives to be complied with or achieved,
 - (c) require standards or objectives specified in or under other enactments to be complied with or achieved.

Imposition of conditions

- 18 In connection with the imposition of conditions as mentioned in paragraph 5(6) the regulations may in particular provide—
- (a) for such conditions to be imposed in the light of any specified general principles and any directions or guidance given under the regulations,
 - (b) for such guidance to include guidance sanctioning reliance by a regulator on any arrangements referred to in the guidance to operate to secure a particular result as an alternative to imposing a condition,
 - (c) for such conditions to be imposed by reference to agreements between or among holders of licences as to the carrying on by them of the controlled activities authorised by the licences.

Charging schemes

- 19 The regulations may—
- (a) require any such scheme as is mentioned in paragraph 7 to be so framed that the fees and charges payable under the scheme—
 - (i) are determined in the light of any specified general principles and any directions or guidance given under the regulations,

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- (ii) are sufficient, taking one year with another, to cover such expenditure (whether or not incurred by the regulator to whom they are so payable) as is specified,
- (b) authorise any such scheme to make different provision for different cases (and specify particular kinds of such cases).

Offences

- 20 (1) The regulations may provide for any such offence as is mentioned in paragraph 12 to be triable—
- (a) only summarily,
 - (b) either summarily or on indictment.
- (2) The regulations may provide for such an offence to be punishable—
- (a) on summary conviction by—
 - (i) imprisonment for a term not exceeding such period as is specified (which must not exceed 6 months), or
 - (ii) a fine not exceeding such amount as is specified (which must not exceed £20,000),or both,
 - (b) on conviction on indictment by—
 - (i) imprisonment for a term not exceeding such period as is specified (which must not exceed 5 years), or
 - (ii) a fine,or both.
- (3) The regulations may provide for continuing offences and for any such offences to be punishable by a daily or other periodic fine of such amount as is specified (in addition to any punishment provided for in pursuance of sub-paragraph (2)).
- (4) The Scottish Ministers may by order substitute for the sum for the time being specified in sub-paragraph (2)(a)(ii) such other sum as appears to them to be justified by a change in the value of money appearing to them to have taken place since the last occasion on which the sum was fixed.

Interpretation

- 21 In this schedule—
- “general binding rules” means rules specified in the regulations in pursuance of paragraph 3(2),
 - “notification” means notification of a proposal to carry on a controlled activity in accordance with any provision made in the regulations in pursuance of paragraph 4(1),
 - “registration” means registration under any provision made in the regulations in pursuance of paragraph 3(4)(b),
 - “the regulations” means regulations under section 20,
 - “regulators” has the meaning given in paragraph 2(1),
 - “specified” means specified in the regulations,
 - “water use licence” means a licence granted under any provision made in the regulations in pursuance of paragraph 3(4)(a).

SCHEDULE 3

(introduced by section 33)

SUSTAINABLE URBAN DRAINAGE SYSTEMS: FURTHER AMENDMENTS

The 1968 Act

- 1 The 1968 Act is amended as follows.
- 2 In section 1(1) (duty of Scottish Water to provide for sewerage)—
 - (a) after “sewers” in the first place where it occurs insert “and public SUD systems”,
 - (b) after “sewers” in the second place where it occurs insert “and SUD systems”.
- 3 In section 2 (maintenance of public sewers etc.), after “sewers,” insert “SUD systems,”.
- 4 In section 3 (power to construct public sewers)—
 - (a) in subsection (1)(a), after “sewer” insert “or SUD system”,
 - (b) in subsection (2), after “sewer” insert “or SUD system”.
- 5 In section 3A(2) (vesting of privately constructed sewers)—
 - (a) after “sewer” in the first place where it occurs insert “or SUD system”,
 - (b) after “sewer” in each other place where it occurs insert “or system”,
 - (c) after “sewers” insert “, SUD systems”.
- 6 In section 4 (Scottish Water may close or alter public sewers etc.)—
 - (a) after “sewer” in the first and third places where it occurs insert “, SUD system”,
 - (b) after “sewer” in the second and fourth places where it occurs insert “, system”.
- 7 In section 7(1) (agreements between roads authorities and Scottish Water), after “sewers” insert “, SUD systems”.
- 8 In section 8(1) (agreements as to provision of sewers etc. for new premises)—
 - (a) after “sewers” in both places where it occurs insert “, SUD systems”,
 - (b) after “of” in the second place where it occurs insert “SUD systems and”.
- 9 In section 11(1) (Scottish Water to keep maps of sewers, drains etc.), after “drains” insert “, SUD systems”.
- 10 (1) Section 12 (rights of owners and occupiers to connect with and drain into public sewers etc.) is amended as follows.
 - (2) In subsection (1)—
 - (a) for “or private sewers” in the first place where those words occur substitute “, private sewers or private SUD systems”,
 - (b) after “sewers” in the second place where it occurs insert “, SUD systems”,
 - (c) after “entitled” in the second place where it occurs insert “(a)”,
 - (d) for “and surface water from those premises” substitute “, and
 - (b) by means of those drains, private sewers or private SUD systems, to drain into those sewers, systems or works the surface water,

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from those premises”.

- (3) In subsection (2)—
- (a) for “or sewers” substitute “, sewers or SUD systems”,
 - (b) after “sewers” in the second place where it occurs insert “, SUD systems”,
 - (c) for “or sewer” substitute “, sewer or SUD system”.
- (4) In subsection (3)—
- (a) for “or sewers” substitute “, sewers or SUD systems”,
 - (b) after “sewers” in the second place where it occurs insert “, SUD systems”,
 - (c) for “or sewer” substitute “, sewer or SUD system”,
 - (d) after “sewer” in the second place where it occurs insert “, system”.
- (5) In subsection (8)—
- (a) for “or sewer” in both places where those words occur substitute “, sewer or SUD system”,
 - (b) after “sewers” insert “, SUD systems”.
- 11 In section 14 (direction by Scottish Water as to manner of construction of works)—
- (a) in subsection (1)—
 - (i) for “or sewer” substitute “, sewer or SUD system”,
 - (ii) after “sewer” in the second, third and fourth places where it occurs insert “, SUD system”,
 - (b) in subsection (5), after “sewer” in each place where it occurs insert “, SUD system”,
 - (c) in subsection (6), after “sewer” insert “, SUD system”.
- 12 In section 15 (owner or occupier to remedy defects in drains etc.)—
- (a) in subsection (1), after “drains” in both places where it occurs insert “, SUD systems”,
 - (b) in subsection (5), after “drain” insert “, SUD system”.
- 13 In section 16 (vesting of sewers and other works in Scottish Water)—
- (a) in subsection (1)—
 - (i) in paragraph (a), after “sewers” insert “, SUD systems”,
 - (ii) in paragraph (c), after “sewers” in the first place where it occurs insert “and private SUD systems”,
 - (iii) in paragraph (cc), after “sewers” in the first place where it occurs insert “and private SUD systems”, and after “sewers” in the second place where it occurs insert “and systems”,
 - (iv) in paragraph (d), after “works” insert “and SUD systems”,
 - (v) in paragraph (e), after “works” insert “and SUD systems”,
 - (b) in subsection (2)—
 - (i) after “sewers” in the first place where it occurs insert “, private SUD systems”,
 - (ii) after “works” insert “and SUD systems”,
 - (c) in subsection (3), after “drains” insert “, SUD systems”.
- 14 In section 16A (vesting of certain private sewers)—

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- (a) in subsection (1), for “or” in the second place where it occurs substitute “and any sewer or SUD system vested in a person”,
 - (b) in subsection (2), after “sewer” insert “or SUD system”.
- 15 In section 17 (Scottish Water may take over private sewage treatment works)—
- (a) in subsection (1)—
 - (i) after “works” in the first place where it occurs insert “or private SUD system”,
 - (ii) after “works” in the second place where it occurs insert “or system”,
 - (b) in subsection (2)—
 - (i) after “works” in the first place where it occurs insert “or a SUD system”,
 - (ii) after “works” in the second place where it occurs insert “or system”,
 - (c) in subsection (4), after “works” insert “and any SUD system”,
 - (d) in subsection (5)—
 - (i) after “works” insert “or a SUD system”,
 - (ii) after “them” insert “or it”,
 - (iii) after “have” insert “or it has”,
 - (e) in subsection (6), after “works” insert “or a SUD system”.
- 16 In section 21(1) (buildings not to interfere with sewers), after “sewer” insert “or SUD system”.
- 17 In section 23 (restriction on working minerals)—
- (a) after “works” in the first place where it occurs insert “, public SUD systems”,
 - (b) after “works” in every other place where it occurs insert “, SUD systems”.
- 18 In section 39 (Scottish Water to have right to sewage), after “sewers” insert “, SUD systems”.
- 19 In section 41 (breaking open of streets etc.), after “sewers” insert “, SUD systems”.
- 20 In section 45 (production of plans and information)—
- (a) after “sewer” in the first and second places where it occurs insert “, SUD system”,
 - (b) after “sewer” in the third and fourth places where it occurs insert “, system”.
- 21 In section 46 (certain matter not to be passed into drains)—
- (a) after “sewer” in the first place where it occurs insert “, public SUD system”,
 - (b) after “sewer” in the second and third places where it occurs insert “, SUD system”.
- 22 In section 48(1) (powers of entry)—
- (a) in paragraph (a), after “of” in the third place where it occurs insert “a SUD system or”,
 - (b) in paragraph (dd)—
 - (i) after “sewer” in the first place where it occurs insert “or SUD system”,
 - (ii) after “sewer” in the second place where it occurs insert “or public SUD system”,
 - (c) in paragraph (f)—

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- (i) after “sewers” in the first place where it occurs insert “, public SUD systems”,
 - (ii) after “sewers” in the second place where it occurs insert “, SUD systems”.
- 23 In section 59 (interpretation)—
- (a) in subsection (1), in the definition of “sewage treatment works”, at the end insert “but does not include a SUD system”,
 - (b) in subsection (3), after “sewer” in both places where it occurs insert “, SUD system”.

Water Industry (Scotland) Act 2002 (asp 3)

- 24 In section 46(1)(b)(ii) of the Water Industry (Scotland) Act 2002 (acquisition of land by agreement for provision of sewerage system), after “sewers” insert “, sustainable urban drainage systems”.

SCHEDULE 4

(introduced by section 34)

MODIFICATIONS OF PART III OF THE 1980 ACT

- 1 In section 22 (power to break open streets) of the 1980 Act—
- (a) the existing provision becomes subsection (1),
 - (b) after that subsection insert—
 - “(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.”
- 2 In section 23 (power to lay mains etc.), after subsection (2) insert—
- “(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.
 - (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 (1) Section 24 (communication and supply pipes) of the 1980 Act is amended as follows.
- (2) In subsection (1), for “the water authority providing the supply” substitute “Scottish Water”.
 - (3) After subsection (1) insert—

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- “(1A) Subsection (1) does not apply in relation to the laying of any part of a service pipe in respect of which an authorisation under section 23A(1) is in force.”
- (4) In subsection (2), for “all water authorities” substitute “Scottish Water”.
- (5) In subsection (3)—
- (a) at the beginning insert “Subject to section 23A,”,
 - (b) for “the water authority and the authority” substitute “Scottish Water and Scottish Water”,
 - (c) for “their” in both places where it occurs substitute “its”.
- (6) In subsection (4)—
- (a) for “the water authority” substitute “Scottish Water”,
 - (b) for “them” in both places where it occurs substitute “it”.
- 4 (1) Part II of Schedule 3 (provisions as to laying communication and supply pipes etc.) is amended as follows.
- (2) In paragraph 4, after sub-paragraph (2) insert—
- “(3) In relation to a service pipe not vested in Scottish Water, Scottish Water may recover from the person in whom the service pipe is vested any expenses reasonably incurred by Scottish Water under sub-paragraph (1) or (2) of this paragraph in connection with the inspection, repair, alteration, renewal, removal or replacement of the service pipe.
- (4) In relation to a communication pipe laid by any person in pursuance of an authorisation under section 23A(1) and vested in that person, sub-paragraphs (1) and (2) of this paragraph (except so far as conferring power to lay service pipes) apply to that person as they apply to Scottish Water.”
- (3) In paragraph 6, after sub-paragraph (1) insert—
- “(1A) Sub-paragraph (1) does not apply in relation to the laying of any part of a communication pipe in respect of which an authorisation under section 23A(1) is in force.”
- 5 In Schedule 4 (provisions to be incorporated in orders relating to water undertakings), in paragraph 34, after sub-paragraph (2) insert—
- “(3) Scottish Water may, whether or not proceedings have been taken under this paragraph—
- (a) remove any pipe or apparatus attached without its consent to a pipe belonging to it or to a supply pipe,
 - (b) carry out such works as it considers necessary in relation to any alteration made in, or apparatus attached to, a supply pipe without its consent,
- and may recover from the person who attached the pipe or apparatus or, as the case may be, made the alteration any expenses reasonably incurred by it in doing so.”