

**2003 No. 331**

**WATER SUPPLY**

**The Water Industry (Scotland) Act 2002 (Consequential Provisions) Order 2003**

*Made*

*24th June 2003*

*Coming into force in accordance with article 1*

The Scottish Ministers, in exercise of the powers conferred by sections 68(3) and 69 of the Water Industry (Scotland) Act 2002<sup>(a)</sup> and of all other powers enabling them in that behalf, hereby make the following Order, a draft of which has, in accordance with section 68(5) of that Act, been laid before and approved by resolution of the Scottish Parliament:

**Citation and commencement**

**1.** This Order may be cited as the Water Industry (Scotland) Act 2002 (Consequential Provisions) Order 2003 and shall come into force on the day after the day on which it is made.

**Modifications of enactment**

**2.** The modifications specified in Parts I and II of the Schedule to this Order shall have effect.

*ROSS FINNIE*

A member of the Scottish Executive

St Andrew's House,  
Edinburgh  
24th June 2003

## SCHEDULE

## PART I

## MODIFICATIONS OF PUBLIC GENERAL ACTS

***Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c.42)***

**1.** In section 1 (procedure for compulsory purchase of land) of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947(a)–

- (a) in subsection (1), after paragraph (e) insert–  
“(f) by Scottish Water under section 47 of the Water Industry (Scotland) Act 2002 (asp 3);” and
- (b) after subsection (2) insert–

“(2A) The following sections of, and the Schedules to, this Act shall apply in relation to a compulsory purchase by Scottish Water as they apply in relation to a compulsory purchase by a local authority.”.

***Housing and Town Development (Scotland) Act 1957 (c.38)***

**2.—**(1) The Housing and Town Development (Scotland) Act 1957 is amended as follows.

- (2) In section 10 (town development schemes)–
  - (a) in subsection (1)–
    - (i) for “or any public authority” substitute “authority or Scottish Water”; and
    - (ii) at the end insert “or, as the case may be, Scottish Water”; and
  - (b) in subsection (5), after “authority” insert “or Scottish Water”.
- (3) Sections 11, 12 and 15(2) are repealed.
- (4) In section 16 (provision for failure to carry out duties under overspill agreements or town development schemes)–
  - (a) in subsection (1), the words “or public” are repealed; and
  - (b) after subsection (5) insert–  
“(5A) This section shall apply in relation to Scottish Water as it applies in relation to a local authority.”.
- (5) In section 19(1) (interpretation of part II), the definition of “public authority” is repealed.
- (6) In Schedule 2 (town development schemes)–
  - (a) in paragraph 1(c), the words from “and the public authority” to the end;
  - (b) paragraph 3; and
  - (c) in paragraph 4, the words “or 3”,
 are repealed.

***Town and Country Planning (Scotland) Act 1959 (c.70)***

**3.** For paragraph 3 of Schedule 4 (authorities to whom Part II applies) to the Town and Country Planning (Scotland) Act 1959 substitute–

“**3.** Scottish Water.”.

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(a) Section 1 was amended by the Statute Law Revision Act 1953 (c.5); the National Health Service (Scotland) Act 1978 (c.29), Schedule 16, paragraph 2; the Civil Aviation Act 1982 (c.16), Schedule 15, paragraph 2; the Roads (Scotland) Act 1984 (c.54), section 110(3) and the Land Reform (Scotland) Act 2003 (asp 2), Schedule 2, paragraph 2.

### ***Control of Pollution Act 1974 (c.40)***

- 4.—(1) The Control of Pollution Act 1974(a) is amended as follows.
- (2) In section 30H (discharges into and from sewers etc.)—
- (a) for “a sewerage authority” wherever the expression occurs substitute “Scottish Water”;
  - (b) for “the sewerage authority” wherever the expression occurs substitute “Scottish Water”; and
  - (c) for “person” where it third occurs in subsection (1) substitute “the person”.
- (3) In section 36(1)(b) (provisions supplementary to sections 34 and 35)—
- (a) after “instrument”, in the first place where it occurs, insert “to Scottish Water and”; and
  - (b) the words “, and to each water authority within whose limits of supply,” and the words “, or within whose limits of supply,” are repealed.
- (4) In section 56(1) (interpretation etc. of Part II) –
- (a) the definitions of “sewerage authority” and “water authority” are repealed; and
  - (b) in the definition of “watercourse”—
    - (i) for “the water authority” substitute “Scottish Water”; and
    - (ii) for “a water authority” substitute “Scottish Water”.
- (5) In section 62(2)(a) (noise in streets)—
- (a) for “a water authority (“water authority” being construed in accordance with section 62 of the Local Government etc. (Scotland) Act 1994)” substitute “Scottish Water”; and
  - (b) for “functions” substitute “core functions (within the meaning of section 70(2) of the Water Industry (Scotland) Act 2002) (asp 3)”.

### ***Rent (Scotland) Act 1984 (c.58)***

- 5.—(1) The Rent (Scotland) Act 1984(b) is amended as follows.
- (2) In each of sections 5(2) (no protected or statutory tenancy where landlord’s interest belongs to local authority etc.) and 63(4) (Part VII contracts), for paragraph (aa) substitute—
- “(aa) Scottish Water;”.
- (3) In section 115(1) (interpretation), the definitions of “sewerage authority” and “water authority” are repealed.

### ***Housing (Scotland) Act 1988 (c.43)***

- 6.—(1) The Housing (Scotland) Act 1988(c) is amended as follows.
- (2) In each of sections 43(3)(a)(ia) (removal of special regimes for tenancies of housing associations etc.) and 45(4)(aa) (transfer of existing tenancies), for “a water authority or sewerage authority” substitute “Scottish Water”.
- (3) In section 55(1) (interpretation of Part II), the definitions of “sewerage authority” and “water authority” are repealed.
- (4) In schedule 4 (tenancies which cannot be assured tenancies), for paragraph 11(aa) substitute—
- “(aa) Scottish Water;”.

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(a) Section 30H was inserted by the Environment Act 1995 (c.25), Schedule 16, paragraph 2. Section 36(1), section 56(1) and section 62(2) were amended by the Local Government etc. (Scotland) 1994 (c.39), Schedule 13, paragraph 95 and the Environment Act 1995 (c.25), Schedule 16, paragraph 8 and Schedule 22, paragraph 29.

(b) Section 5(2), section 63(4) and section 115(1) were amended by the Housing (Consequential Provisions) Act 1985 (c.71), Schedule 2, paragraph 59; the Housing (Scotland) Act 1987 (c.26), Schedule 23, paragraph 29; the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 137 and the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40), Schedule 4, paragraph 54.

(c) Section 43(3), section 45(4), section 55(1) and Schedule 4, paragraph 11 were amended by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 157 and the Housing (Scotland) Act 2001 (asp 10), Schedule 10, paragraph 14 and by S.I. 1993/658.

***Environment Act 1995 (c.25)***

7.—(1) The Environment Act 1995 is amended as follows.

(2) In section 36(3)(a) (codes of practice with respect to environmental and recreational duties), paragraph (g) is repealed.

***Housing (Scotland) Act 2001 (asp 10)***

8.—(1) The Housing (Scotland) Act 2001 is amended as follows.

(2) In section 11(1)—

(a) in paragraph (b)—

(i) after sub-paragraph (i) insert “or”; and

(ii) sub-paragraph (iii) and the word “or” which immediately precedes it are repealed; and

(b) at the end of that paragraph insert “or is Scottish Water.”.

(3) In section 56(2)(c) (tenant management agreements: further provision) for “a water authority or a sewerage authority” substitute “Scottish Water”.

PART II

MODIFICATIONS OF SUBORDINATE LEGISLATION

***Utilities Contracts Regulations 1996 (S.I. 1996/2911)***

9. In Schedule 1 (utilities and activities) to the Utilities Contracts Regulations 1996(b), in part A of the table, in the column headed “utility”, for “a water and sewerage authority established by section 62 of the Local Government etc. (Scotland) Act 1994”, substitute “Scottish Water”.

***Surface Waters (Abstraction for Drinking Water) (Classification) (Scotland) Regulations 1996 (S.I. 1996/3047)***

10.—(1) The Surface Waters (Abstraction for Drinking Water) (Classification) (Scotland) Regulations 1996 are amended as follows.

(2) In regulation 1(2) (citation, commencement, interpretation and extent), the definitions of “water authority” and “relevant water authority” are repealed.

(3) In each of the following provisions, for “the relevant water authority” wherever the expression occurs substitute “Scottish Water”—

Regulation 9(2),

Regulation 9(4),

Regulation 10,

Regulation 11,

Regulation 14(2).

(4) In regulation 14(1) (registers)—

(a) for “Each water authority” substitute “Scottish Water”; and

(b) in sub-paragraph (a) delete the words “in its area”.

***Environmental Impact Assessment (Scotland) Regulations (S.S.I. 1999/1)***

11. In regulation 2(1)(c) (interpretation) of the Environmental Impact Assessment (Scotland) Regulations 1999, in the definition of “the consultation bodies”, for paragraph (c) substitute—

“(c) Scottish Water;”.

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(a) Section 36(3) was amended by the Water Industry (Scotland) Act 2002 (asp 3), Schedule 7, paragraph 24.

(b) Schedule 1 was substituted by S.I. 2001/2418, regulation 3 and Schedule 1.

(c) Regulation 2 was amended by S.S.I. 2002/324, regulation 2.

***Pollution Prevention and Control (Scotland) Regulations 2000 (S.S.I. 2000/323)***

**12.** In paragraph 9(b)(ii) of Part 2 of Schedule 4 (determination of applications) to the Pollution Prevention and Control (Scotland) Regulations 2000, for the words from “a water and sewerage authority” to the end substitute “Scottish Water”.

***Water Supply (Water Quality) (Scotland) Regulations 2001 (S.S.I. 2001/207)***

**13.** In regulation 2(1) (interpretation) of the Water Supply (Water Quality) (Scotland) Regulations 2001, for the definition of “water authority”, substitute–

““water authority” means Scottish Water established by section 20 of, and Schedule 3(2) to, the Water Industry (Scotland) Act 2002 (asp 3)”;

***Race Relations Act 2002 (Statutory Duties) (Scotland) Order 2002 (S.S.I. 2002/62)***

**14.** In Schedule 1 (bodies and other persons required to publish race equality schemes) to the Race Relations Act 2002 (Statutory Duties) (Scotland) Order 2002, for “A water or sewerage authority constituted under section 62 of the Local Government etc. (Scotland) Act 1994” substitute “Scottish Water”.

***Housing (Scotland) Act 2001 (Scottish Secure Tenancy etc.) Order 2002 (S.S.I. 2002/318)***

**15.** In Column 1 of the table in the Schedule to the Housing (Scotland) Act 2001 (Scottish Secure Tenancy etc.) Order 2002(a), for “water authorities or sewerage authorities” substitute “Scottish Water”.

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(a) The Schedule was substituted by S.S.I. 2002/415, article 2.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order makes modifications of enactments which appear to be necessary or expedient in consequence of the Water Industry (Scotland) Act 2002 (asp 3) (“the 2002 Act”). Section 20 of the 2002 Act created Scottish Water, which took over the functions previously exercisable by the former water and sewerage authorities (the East, North and West of Scotland Water Authorities).

Article 2 provides for the modifications of the enactments specified in the Schedule to this Order. In the Schedule, modifications of public general enactments are in Part I and modifications of subordinate legislation are in Part II.

The modifications in paragraph 1 of the Schedule are to ensure that, where Scottish Water exercises its powers of compulsory purchase under section 47 of the 2002 Act, the procedure for compulsory purchase of land, as set out in the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c.42), will apply to Scottish Water in the same way as they apply in relation to local authorities exercising such powers.

The effect of the modifications in paragraphs 2 to 15 of the Schedule is to replace any references to the former water and sewerage authorities in the enactments specified with references to Scottish Water, or to repeal or revoke provisions concerning those authorities which will have no application to Scottish Water.



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