



Water (Scotland) Act 1980

1980 CHAPTER 45

PART I

CENTRAL AUTHORITY

^{F1}[1] **General duties of Secretary of State and of water authorities.**

It shall be the duty of the Secretary of State and of [^{F2}Scottish Water] when exercising their respective functions or powers under or by virtue of this Act—

- (a) to promote the conservation and effective use of the water resources of, and the provision of adequate water supplies throughout, Scotland; and
- (b) to secure the collection, preparation, publication and dissemination of information and statistics relating to such resources and supplies.]

Textual Amendments

F1 S. 1 substituted (1.4.1996) by 1994 c. 39, s. 65(1) (with s. 74(4)); S.I. 1996/323, art. 4(1)(a), **Sch. 1**

F2 Words in s. 1 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 2** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

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Textual Amendments

F3 S. 2 repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23, SIF 81:2), ss. 25, 41, Sch. 2 para. 38, **Sch. 4**

Changes to legislation: Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 05 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

PART II

DUTIES OF WATER AUTHORITIES

F43

Textual Amendments
F4 S. 3 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F54

Textual Amendments
F5 S. 4 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F65

Textual Amendments
F6 S. 5 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

6 Duty of authority to provide supply.

- (1) It shall be the duty of [^{F7}Scottish Water] to provide a supply of wholesome water to every part of [^{F8}its] limits of supply where a supply of water is required for domestic purposes and can be provided at a reasonable cost.
- (2) Without prejudice to the generality of subsection (1), [^{F9}Scottish Water] shall provide a supply of wholesome water in pipes to every part of [^{F10}its] limits of supply where a supply of water is required for domestic purposes and shall [^{F11}, subject to subsection (2A),] take the pipes affording that supply to such point or points as will enable the buildings for which a supply is required for domestic purposes to be connected thereto at a reasonable cost; but this subsection shall not require [^{F12}Scottish Water] to do anything which is not practicable at a reasonable cost or to provide such a supply to any part of [^{F10}its] limits of supply where such a supply is already available at such point or points.

[^{F13}(2A) Subsection (2), so far as requiring Scottish Water to take pipes to the point or points referred to in that subsection, shall not apply for so long as there is in force an agreement between Scottish Water and some other person for that person to take the pipes referred to in that subsection to that point or those points.

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- (2B) Subsections (1) and (2), so far as excepting from the duties under those subsections things which cannot be done at a reasonable cost, shall not apply to such cases or descriptions of case as the Scottish Ministers may direct.
- (2C) In determining what is a reasonable cost for the purpose of subsection (2) so far as excepting from the duty under that subsection things which cannot be done at a reasonable cost, the costs to be taken into account include the costs of—
- (a) constructing such other water mains, communication pipes and other waterworks, and
 - (b) carrying out such other work,
- as Scottish Water considers necessary in consequence of the connection referred to in that subsection.
- (2D) Subject to subsection (2C), any question as to what is a reasonable cost for the purposes of this section shall be determined in accordance with regulations made by the Scottish Ministers.
- (2E) Such regulations may, in particular, make provision as to—
- (a) the matters to be taken into, or left out of, account,
 - (b) the criteria to be applied,
 - (c) the method of calculation to be adopted,
- in determining what is a reasonable cost for those purposes, and may make different provision for different cases and descriptions of case.]
- (3) If any question arises under this section as to—
- [^{F14}(za) whether a reasonable cost has been properly determined in accordance with regulations made under subsection (2D), or]
 - (a) whether a supply of water can be provided at a reasonable cost, or
 - (b) whether anything is or is not practicable at a reasonable cost, or
 - (c) the point or points to which pipes must be taken in order to enable buildings to be connected therewith at a reasonable cost,
- the [^{F15}Water Industry Commission for Scotland], if requested to do so by [^{F16}any person aggrieved], shall, after [^{F16}consultation with that person and with [^{F17}Scottish Water]], determine that question and [^{F18}Scottish Water] shall give effect to [^{F19}its] determination.
- [^{F20}(3A) The Commission—
- (a) shall prepare a statement which specifies the procedure to be followed for the purposes of its determining questions under subsection (3), and
 - (b) may from time to time revise the statement.
- (3B) In preparing or revising the statement, the Commission shall consult Scottish Water and such other persons as it considers appropriate.
- (3C) The Commission shall, on payment of such reasonable fee (if any) as the Commission may determine, send a copy of the statement to any person who requests it.]
- (4) [^{F21}Scottish Water] shall also provide a supply of water for the purpose of complying with any other obligation imposed on [^{F22}it] by this Act and may, if [^{F23}it thinks] fit, provide a supply to enable [^{F24}it] to exercise any of the powers conferred on [^{F24}it] by this Act or for any other purpose which [^{F25}it considers] is in the interests of the area comprising [^{F26}its] limits of supply.

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- [^{F27}(5) The duties imposed by subsections (1), (2) and (4) shall not require Scottish Water to do anything which is prejudicial to its compliance with—
- (a) any directions given to it under section 56 of the Water Industry (Scotland) Act 2002 (asp 3) so far as setting objectives of a type referred to in section 56A of that Act, or
 - (b) a statement of policy issued under section 29D of that Act.]

Textual Amendments

- F7** Words in s. 6(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 3(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F8** Word in s. 6(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 3(2)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F9** Words in s. 6(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 3(3)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F10** Word in s. 6(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 3(3)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F11** Words in s. 6(2) inserted (6.3.2006) by [Water Environment and Water Services \(Scotland\) Act 2003 \(asp 3\)](#), **s. 29(6)** (with s. 39(2)); S.S.I. 2006/55, **art. 2**
- F12** Words in s. 6(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 3(3)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F13** S. 6(2A)-(2E) inserted (6.3.2006) by [Water Environment and Water Services \(Scotland\) Act 2003 \(asp 3\)](#), **s. 29(7)** (with s. 35(2)); S.S.I. 2006/55, **art. 2**
- F14** S. 6(3)(za) inserted (6.3.2006) by [Water Environment and Water Services \(Scotland\) Act 2003 \(asp 3\)](#), **s. 29(8)** (with s. 35(2)); S.S.I. 2006/55, **art. 2**
- F15** Words in s. 6(3) substituted (1.4.2006) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), **ss. 23(2)(a)(i)**, 37(2) (with s. 36); S.S.I. 2006/167, **art. 2**, Sch. 1
- F16** Words in s. 6(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(3)**; S.I. 1996/323, **art. 4(1)(c)**
- F17** Words in s. 6(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 3(4)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F18** Words in s. 6(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 3(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F19** Word in s. 6(3) substituted (1.4.2006) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), **ss. 23(2)(a)(ii)**, 37(2) (with s. 36); S.S.I. 2006/167, **art. 2**, Sch. 1
- F20** S. 6(3A)-(3C) inserted (1.4.2006) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), **ss. 23(2)(b)**, 37(2) (with s. 36); S.S.I. 2006/167, **art. 2**, Sch. 1
- F21** Words in s. 6(4) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 3(5)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F22** Words in s. 6(4) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 3(5)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F23** Words in s. 6(4) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 3(5)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F24** Word in s. 6(4) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 3(5)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F25** Words in s. 6(4) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 3(5)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F26** Word in s. 6(4) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 3(5)(e)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F27** S. 6(5) added (1.7.2005) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), **s. 24(2)** (with s. 36); S.S.I. 2005/351, **art. 2**, Sch. 2

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7 Supply of water for domestic purposes.

- (1) In this Act a supply of water for domestic purposes means a sufficient supply for drinking, washing, cooking, central heating and sanitary purposes but not for any bath having a capacity in excess of 100 gallons, and includes—
 - (a) a supply for the purposes of any profession carried on in any premises the greater part of which is used as a house; and
 - (b) where the water is drawn from a tap inside a house and no hosepipe or similar apparatus is used, a supply for watering a garden, for horses kept for private use and for washing vehicles kept for private use.
- (2) A supply of water under subsection (1) does not include a supply of water for the business of a laundry, or any business of preparing food or beverages for consumption otherwise than on the premises.
- (3) “Domestic purposes” in any local enactment relating to the supply of water shall be construed in accordance with sub-sections (1) and (2).

8 Water supplied for domestic purposes to be wholesome.

[^{F28}Scottish Water] shall provide in [^{F29}its] mains and communication pipes a supply of wholesome water sufficient for the domestic purposes of all owners and occupiers of premises within [^{F29}its] limits of supply who are entitled to a supply for those purposes.

Textual Amendments

- F28** Words in s. 8 substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 4\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F29** Word in s. 8 substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 4\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

9 Supply of water for non-domestic purposes.

- (1) Subject to the following provisions of this Act, [^{F30}Scottish Water] shall give a supply of water on reasonable terms and conditions for purposes other than domestic purposes to the owner or occupier of any premises within [^{F31}its] limits of supply who requests [^{F32}it] to give such a supply to those premises.
 - (2) [^{F33}Scottish Water] shall not be required to give a supply of water in accordance with subsection (1) if [^{F34}its] ability to meet existing obligations to supply water for any purposes or probable future requirements to supply water for domestic purposes, without having to incur unreasonable expenditure in constructing new waterworks for the purpose, would thereby be endangered.
- [^{F35}(2A) Where a supply of water has been made to premises under subsection (2) of section 16 of the Water Services etc. (Scotland) Act 2005 (asp 3) but—
- (a) the arrangements for the supply (made between the occupier of the premises and the water services provider who made the related request under subsection (1) of that section in respect of the premises) are at an end, or are to come to an end, in consequence of non-payment of charges owed to the provider in relation to the watersupplied; or
 - (b) the supply is discontinued (or is to be discontinued) under section 18(5) of that Act,

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Scottish Water shall not be required to give a supply of water to the premises in accordance with subsection (1) if it is of the opinion that there is no reasonable prospect of recovering the charges (or any significant proportion of the charges) which it would be entitled to recover in relation to that supply of water were it given.

- (2B) Where Scottish Water decides, by virtue of subsection (2A), not to give a supply of water to premises, the occupier of the premises may by notice require the Water Industry Commission for Scotland to review that decision.
- (2C) In a review under subsection (2B), the Commission may, having regard to any representations made to it by the parties—
- (a) confirm the decision of Scottish Water; or
 - (b) direct Scottish Water to give a supply of water to the premises in accordance with subsection (1),
- and the determination of the Commission in the review shall be final.]
- (3) [F36 Scottish Water] may require, as a condition of giving a supply of water under this section, that the person requesting the supply shall enter into an agreement undertaking to pay to [F37 it] in respect of each year a sum not exceeding one-eighth of the cost of providing and laying the necessary mains (less any amounts received by [F38 Scottish Water] in respect of water supplied whether for domestic or non-domestic purposes in that year from those mains) until the expiration of a period of 12 years or such lesser period as may appear to [F38 Scottish Water] to be appropriate.
- (4) Any question arising as to the terms and conditions on which water is to be supplied [F39 (not being a question as respect charges for the water which is to be supplied)] under this section and any question whether [F40 Scottish Water is] justified in refusing to give a supply shall in default of agreement, be referred to the Secretary of State and the Secretary of State may determine it himself or, if he thinks fit, refer it for determination by arbitration.
- (5) Where [F41 Scottish Water is] required to give a supply of water under this section, the powers of [F42 Scottish Water] and of persons supplied or proposed to be supplied by [F43 it] to lay mains and pipes for providing a supply of water for domestic purposes and to break open [F44 roads] for that purpose shall apply for the purpose of the provision of a supply under this section.

F45(6)

Textual Amendments

- F30** Words in s. 9(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 5\(2\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F31** Word in s. 91(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 5\(2\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F32** Word in s. 9(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 5\(2\)\(c\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F33** Words in s. 9(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 5\(3\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F34** Word in s. 9(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 5\(3\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F35** S. 9(2A)-(2C) inserted (7.9.2006) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), [s. 17\(4\)](#) (with s. 76); S.S.I. 2006/445, [art. 2](#), [Sch.](#)

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- F36** Words in s. 9(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 5(4)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F37** Word in s. 9(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 5(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F38** Words in s. 9(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 5(4)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F39** Words in s. 9(4) inserted (1.4.1996) by 1994 c. 39, s. 105; S.I. 1996/323, art. 4(1)(a), **Sch. 1**
- F40** Words in s. 9(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 5(5)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F41** Words in s. 9(5) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 5(6)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F42** Words in s. 9(5) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 5(6)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F43** Word in s. 9(5) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 5(6)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F44** Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(2)**
- F45** S. 9(6) repealed (1.4.1996) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch. 14** (with s. 118(1)(2)(4)); S.I. 1996/918, **art. 2(b)(ii)**

[^{F46}9A

[[^{F48}Notwithstanding anything in section 9] of this Act, no charge may be made by [^{F47}(1)] [^{F49}Scottish Water] in respect of—

- [[^{F50}(a) water taken for the purpose of extinguishing fires or taken by [^{F51}the Scottish Fire and Rescue Service] for any other emergency purposes;
- (b) water taken for the purpose of testing apparatus installed or equipment used for extinguishing fires or for the purpose of training persons for fire-fighting; or
- (c) the availability of water for any purpose mentioned in paragraph (a) or (b) above:]

Provided that nothing in this section shall prevent the making of charges in respect of work carried out at the request of or for the benefit of any person receiving a supply of water for the said purposes.]

[^{F52}(2) Subsection (1) above shall not have the effect, where any water is used or made available for any of the purposes mentioned in paragraph (a) or (b) of that subsection, of requiring a reduction in the charges imposed in respect of the provision for other purposes of the supply from which the water is taken.]

Textual Amendments

- F46** S. 9A added by Local Government and Planning (Scotland) Act 1982 (c.43, SIF 81:2), s. 59
- F47** S. 9A renumbered as s. 9A(1) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(4)(b)**; S.I. 1996/323, **art. 4(1)(c)**
- F48** Words in s. 9A substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(4)(a)**; S.I. 1996/323, **art. 4(1)(c)**
- F49** Words in s. 9A substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 6** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F50** S. 9A(a)(b)(c) substituted (6.3.1992) for paras. (a)(b) by Local Government Finance Act 1992 (c. 14), s. 107, **Sch. 11, Pt. IV**, para. 29(b) (with s. 118(1)(2)(4))

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- F51** Words in s. 9A(1)(a) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [sch. 7 para. 51\(2\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F52** S. 9A(2) added (1.4.1996) by [1994 c. 39](#), s. 180(1), [Sch. 13 para. 119\(4\)\(c\)](#); S.I. 1996/323, [art. 4\(1\)\(c\)](#)

10 Compensation for damage resulting from exercise of powers.

- (1) Subject to the provisions of this section, a [^{F53}local authority] or [^{F54}Scottish Water]^{F55} . . . shall make full compensation to any person who has sustained damage by reason of the exercise by them [^{F56}or it] of any of their [^{F57}or its] powers under this Act in relation to a matter as to which he has not himself been in default.
- [^{F58}(1A) The escape of water, however caused, ^{F59} . . . from one of [^{F60}Scottish Water’s]^{F59} . . . communication [^{F61}or supply] pipes or mains shall for the purposes of subsection (1) above be taken to have been brought about by the exercise by [^{F62}it] of powers under this Act.]
- (2) Any question arising under this section as to the fact of damage or as to the amount of compensation shall, in case of dispute, be determined by arbitration.
- (3) A claim for compensation under this section shall not be maintainable unless it is made within [^{F63}24] months after the date on which it is alleged to have arisen.
- (4) The provisions of this section shall be without prejudice to any other provisions in this Act relating to compensation.
- [^{F64}(5) Without prejudice to any right to compensation other than under subsection (1) above, in that subsection “person” does not, as regards compensation payable under that subsection by virtue of subsection (1A) above, include—
- (a) statutory undertakers as defined in [^{F65}section 214 of the Town and Country Planning (Scotland) Act 1997];
- [roads authorities as defined in section 151(1) of the ^{M1} Roads (Scotland) Act ^{F66}(b) 1984;]
- (c) bridge authorities [^{F67}as defined in section 147 of the New Roads and Street Works Act 1991;]
- [road works authority as defined in section 108 of the New Roads and Street ^{F68}(d) Works Act 1991;]
- (e) persons on whom a right to compensation under section [^{F69}141 of the said Act of 1991] is conferred.
- ^{F70}(6)]

Textual Amendments

- F53** Words in s. 10(1) substituted (1.4.1996) by [1994 c. 39](#), s. 180(1), [Sch. 13 para. 119\(5\)\(a\)\(i\)](#); S.I. 1996/323, [art. 4\(1\)\(c\)](#)
- F54** Words in s. 10(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 7\(a\)\(i\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F55** Words in s. 10(1) repealed (1.4.1996) by [1994 c. 39](#), s. 180(1)(2), [Sch. 13 para. 119\(5\)\(a\)\(ii\)](#), [Sch. 14](#); S.I. 1996/323, [art. 4\(1\)\(c\)\(d\)](#), [Sch. 2](#)
- F56** Words in s. 10(1) inserted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 7\(a\)\(ii\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

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- F57** Words in s. 10(1) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 7(a)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F58** S. 10(1A) inserted by Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2), **s. 57(a)**
- F59** Words in s. 10(1A) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(5)(b)(i), **Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2**
- F60** Words in s. 10(1A) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 7(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F61** Words in s. 10(1A) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(5)(b)(ii)**; S.I. 1996/323, **art. 4(1)(c)**
- F62** Word in s. 10(1A) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 7(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F63** Words in s. 10(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(5)(c)**; S.I. 1996/323, **art. 4(1)(c)**
- F64** S. 10(5)(6) inserted by Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2), **s. 57(b)**
- F65** Words in s. 10(5)(a) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 30(1)**
- F66** S. 10(5)(b) substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(3)(a)**
- F67** Words in s. 10(5)(c) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 Pt. IV para. 108(2)(a)**; S.I. 1992/2990, art. 2(2), **Sch. 2**
- F68** S. 10(5)(d) substituted (1.1.1993) by virtue of New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8, Pt. IV, para. 108(2)(b)**; S.I. 1992/2990, art. 2(2), **Sch. 2**
- F69** Words in s. 10(5)(e) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(5)(d)**; S.I. 1994/2850, **art. 3**
- F70** S. 10(6) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(5)(e), **Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2**

Modifications etc. (not altering text)

- C1** S. 10 modified (1.1.2015) by The Public Water Supplies (Scotland) Regulations 2014 (S.S.I. 2014/364), regs. 1(1), **45** (with reg. 1(3)(4))

Marginal Citations

- M1** 1984 c. 54 (**59, 108**).

11 Power of Secretary of State on default of authority or board.

(1) If—

- (a) a complaint is made to the Secretary of State that [^{F71}Scottish Water has] failed—
- (i) to do anything which [^{F72}it is] required to do by or under this Act,
 - (ii) to give an adequate supply of water either as respects quantity or quality within [^{F73}its limits of supply, or has] failed to give any supply which [^{F74}it has] been lawfully required to give, or
 - (iii) to take such steps as are in the circumstances reasonable to obtain new powers or to extend [^{F75}its] existing powers for the purpose of remedying any such failure as is mentioned in paragraph (ii), or
- (b) the Secretary of State is of opinion that an investigation should be made as to whether [^{F76}Scottish Water has] failed in any of those matters,
- he may cause a local inquiry to be held into the matter.

(2) If after a local inquiry has been held in pursuance of subsection (1), the Secretary of State is satisfied that there has been such a failure on the part of [^{F77}Scottish Water], he may make an order declaring [^{F78}it] to be in default and directing [^{F78}it] for the purpose

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of remedying the default to discharge such of ^{F79}its] functions in such a manner and within such time or times as may be specified in the order or, as the case may be, to take such steps within such time or times as may be specified in the order to obtain new powers or to extend ^{F80}its] existing powers.

(3) If ^{F81}Scottish Water fails] to comply with any requirements of ^{F82}an order made under subsection (2)] within the time specified therein for compliance with that requirement—

(a) ^{F83}

^{F84}or]

(b) the Court of Session may on the application of the Lord Advocate on behalf of the Secretary of State order specific performance of the functions and do otherwise as to the Court appears to be just.

(4) ^{F85}

(5) ^{F85}

(6) ^{F85}

(7) ^{F85}

Textual Amendments

- F71** Words in s. 11(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 8\(2\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F72** Words in s. 11(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 8\(2\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F73** Words in s. 11(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 8\(2\)\(c\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F74** Words in s. 11(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 8\(2\)\(d\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F75** Word in s. 11(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 8\(2\)\(e\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F76** Words in s. 11(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 8\(2\)\(f\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F77** Words in s. 11(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 8\(3\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F78** Word in s. 11(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 8\(3\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F79** Word in s. 11(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 8\(3\)\(c\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F80** Word in s. 11(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 8\(3\)\(c\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F81** Words in s. 11(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 8\(4\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F82** Words in s. 11(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 8\(4\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F83** S. 11(3)(a) repealed (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 8\(4\)\(c\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F84** By [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 8\(4\)\(c\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#) it is provided that the word "and" following s. 11(3)(a) is repealed (1.4.2002)

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F85 S. 11(4)-(7) repealed (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 8\(5\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

Modifications etc. (not altering text)

- C2** S. 11 extended (1.10.1991) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1, 130\), s. 20\(6\)\(b\)](#)
- C3** S. 11: Transfer of functions (*temp.* from 6.5.1999 until 1.7.1999) by [S.I. 1999/901, arts. 2, 5, Sch.](#); [S.I. 1998/3178, art. 3](#)
- C4** S. 11 modified (1.1.2015) by [The Public Water Supplies \(Scotland\) Regulations 2014 \(S.S.I. 2014/364\), regs. 1\(1\), 46\(2\)](#) (with reg. 1(3)(4))

PART III

POWERS OF WATER AUTHORITIES FOR THE PURPOSES OF WATER SUPPLY

Modifications etc. (not altering text)

- C5** Pt. III (ss. 12 - 38): 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\(1\)\(b\)](#)

12 Supply of water to premises outwith limits of supply.

F86

Textual Amendments

- F86** S. 12 repealed (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 9](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

13 Supply of water in bulk.

- (1) [^{F87}Scottish Water]^{F88} may enter into an agreement with any other persons ^{F89} . . . , for the giving by those other persons, and the taking by [^{F90}Scottish Water]^{F88}, of a supply of water in bulk for any period and on any terms and conditions, ^{F91} . . .
- (2) ^{F92}
- (3) For the purpose of laying any pipes or installing any apparatus connected therewith, being pipes or apparatus required for giving or taking a supply of water in pursuance of an agreement ^{F93} . . . made under this section, [^{F94}Scottish Water]^{F95} may exercise, ^{F96} . . . ^{F95} the like powers with respect to laying mains and breaking open [^{F97}roads] as are exercisable by [^{F98}it] under this Act for the purpose of laying mains, but subject to the like conditions and obligations.
- (4) ^{F99}
- (5) ^{F99}
- (6) Nothing in this section shall affect any right of a navigation authority under any enactment to prohibit, or impose restrictions on, the supply of water in bulk by [^{F100}Scottish Water]^{F101}.

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Textual Amendments

- F87** Words in s. 13(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F88** Words in s. 13(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(7)(a), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F89** Words in s. 13(1) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(2)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F90** Words in s. 13(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(2)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F91** Words in s. 13(1) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(2)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F92** S. 13(2) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(3)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F93** Words in s. 13(3) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(4)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F94** Words in s. 13(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F95** Words in s. 13(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(7)(c)(i), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F96** Words in s. 13(3) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(4)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F97** Word in s. 13(3) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(7)(c)(ii)**; S.I. 1994/2850, **art. 3**
- F98** Word in s. 13(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(4)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F99** S. 13(4)(5) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(5)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F100** Words in s. 13(6) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(6)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F101** Words in s. 13(6) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), **Sch. 13 para. 119(7)(d)**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

[^{F102}13A Supply of water for use outwith Scotland.

- (1) [^{F103}Scottish Water] may, if for the time being [^{F104}it is] satisfied that such supplies of water as are available to [^{F105}it] are likely to be more than sufficient to enable [^{F105}it] to fulfil [^{F106}its] duties as respects the supply of water to premises in Scotland, enter into an agreement with any other person to give him, on such terms and conditions as [^{F107}it thinks] and whether or not in bulk, a supply of water for use outwith Scotland.
- (2) For the purposes of laying any pipes or installing any apparatus connected therewith, being pipes or apparatus required for giving a supply of water in pursuance of an agreement entered into under subsection (1) above, [^{F108}Scottish Water] may exercise, ^{F109} . . . , the like powers with respect to laying mains or breaking open roads as are exercisable by [^{F110}it] under this Act for the purposes of laying mains, but subject to the like conditions and obligations.]

Textual Amendments

- F102** S. 13A inserted (1.4.1996) by 1994 c. 39, s. 107 (with s. 74(4)); S.I. 1996/323, art. 4(1)(a), **Sch. 1**

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- F103** Words in s. 13A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 11(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F104** Words in s. 13A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 11(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F105** Word in s. 13A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 11(a)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F106** Word in s. 13A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 11(a)(iv)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F107** Words in s. 13A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 11(a)(v)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F108** Words in s. 13A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 11(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F109** Words in s. 13A(2) repealed (1.4.2002 subject to art. 3 of the commencing S.S.I.) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 11(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F110** Word in s. 13A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 11(b)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

14 Power of water authority to give guarantee for supply of water.

[^{F111}Scottish Water] may undertake to pay to any person supplying water, or guarantee payment to any such person of, such periodical or other sums as may be agreed as a consideration for the giving by that person of a supply of water, so far as he can lawfully do so, within any part of the limits of supply of [^{F112}Scottish Water], and the execution by him of any works necessary for that purpose.

Textual Amendments

- F111** Words in s. 14 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 12(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F112** Words in s. 14 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 12(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

^{F113}15

Textual Amendments

- F113** S. 15 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(8), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

16 Powers of survey and search for water on land.

- [^{F114}(1) The Scottish Ministers may, on application made to them by Scottish Water, authorise it to survey, in accordance with this section—
 - (a) any land which it proposes to acquire for the purposes of its water undertaking or proposed water undertaking; or
 - (b) any land in, on or over which it is proposed to lay a water main.]
- (2) Notice of any application under subsection (1) shall be given by [^{F115}Scottish Water]^{F116} to the owner and the occupier of the land, and the Secretary of State shall, before

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- giving his authority under subsection (1), consider any representations made to him by any such owner or occupier within 14 days after the receipt of the notice.
- (3) Where [^{F117}Scottish Water is] authorised to survey any land under this section, any officer of [^{F118}Scottish Water]^{F116} authorised for the purpose shall, on producing if so required some duly authenticated document showing his authority, have a right at all reasonable hours to enter on and survey the land.
 - (4) Section 38(3) to (7) shall apply to any right of entry conferred by this section.
 - (5) Admission to any land shall not be demanded in the exercise of any right under subsection (3) unless 24 hours' notice of the intended entry has been given to the occupier; but where such notice has been given on the first occasion on which the right of entry is exercised, no further notice shall be required before entering on the land on a subsequent occasion in connection with the completion of the survey.
 - (6) The power to survey land under this section shall include power to carry out experimental borings or other works for the purpose of ascertaining the nature of the sub-soil or the presence of underground water therein or the quality or quantity of such water, and to reinstate the land after carrying out any such works.
 - (7) A person shall not carry out any works authorised by subsection (6) on land which is occupied unless at least seven days' notice of his intention to do so has been given to the occupier of the land; and if the occupier of the land objects to the proposed works on the ground that the carrying out thereof would be seriously detrimental to the carrying on of any undertaking, trade or business carried on by him on that land, the works shall not be carried out except with the authority of the Secretary of State.
 - (8) If any damage or injury is caused by the escape of water from any land on which works have been carried out in pursuance of this section, not being damage in respect of which compensation is payable under section 10, nothing in this section shall be construed as exonerating [^{F119}Scottish Water] from any liability in respect of that damage to which [^{F120}it] would be subject if the works had been carried out otherwise than in the exercise of statutory powers.

Textual Amendments

- F114** S. 16(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 13\(2\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F115** Words in s. 16(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 13\(3\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F116** Words in s. 16(1)-(3)(8) repealed (1.4.1996) by [1994 c. 39, s. 180\(1\)\(2\), Sch. 13 para. 119\(9\)\(b\), Sch. 14](#); S.I. 1996.323, [art. 4\(1\)\(c\)\(d\), Sch. 2](#)
- F117** Words in s. 16(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 13\(4\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F118** Words in s. 16(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 13\(4\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F119** Words in s. 16(8) substituted (1.4.2002 subject to art. 3 of the commencing S.S.I.) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 13\(5\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F120** Word in s. 16(8) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 13\(5\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

Modifications etc. (not altering text)

- C6** S. 16 extended by [Gas Act 1986 \(c. 44, SIF 44:2\), s. 3, Sch. 7 para. 2\(1\)\(xxxviii\), Sch. 8 para. 33](#)

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17 Acquisition of water rights.

- (1) [^{F121}Scottish Water]^{F122} may acquire by agreement rights to take water from any stream or other source ^{F123} . . .
- (2) The Secretary of State may, on the application of [^{F124}Scottish Water]^{F122}, by order provide for the compulsory acquisition by [^{F125}it] of such rights to take water from any stream or other source as may be specified in the order; and the order may contain such incidental, consequential and supplementary provisions as the Secretary of State thinks necessary or expedient for the purposes of the order, and such provisions may (but without prejudice to the generality of this subsection) include provisions enabling [^{F126}Scottish Water]^{F122} to carry on any business or trade ancillary to taking of water; and where such provisions include a provision requiring the payment of compensation, the amount of such compensation shall, in case of dispute, be settled in the manner provided by the Lands Clauses Acts with reference to taking of land otherwise than by agreement.
- (3) Where the acquisition of water rights by [^{F127}Scottish Water]^{F122} under this Part will result in the impounding of any stream—
 - (a) ^{F128}
 - (b) the Secretary of State shall, in any order for the compulsory acquisition of such rights, prescribe the quantity of compensation water to be provided by [^{F129}Scottish Water]^{F122}, and shall incorporate in the order the appropriate provisions of [^{F130}Part III of Schedule 4] subject to such modifications and adaptations as he thinks fit.
- (4) Where the acquisition of water rights by [^{F131}Scottish Water]^{F122} under this Part will, in the opinion of the Secretary of State, substantially reduce the flow of any stream—
 - (a) ^{F132}
 - (b) the Secretary of State shall in any order for the compulsory acquisition of such rights prescribe the extent to which and the circumstances in which water may be taken.
- (5) [^{F133}Subject to subsections (5A) and (5B)] in assessing the quantity of compensation water to be provided under any such ^{F134} . . . order or in determining the extent to which and the circumstances in which water may be taken under any such ^{F134} . . . order, the Secretary or State shall have regard to all the circumstances of the particular case, including—
 - (a) the interests of public health;
 - (b) the character and flow of the stream;
 - (c) the extent to which the stream is or may in the future be used for industrial purposes or for the purposes of any public undertaking or for fisheries, water supply by other undertakers, agriculture, transport and navigation;
 - (d) the effect on land drainage or on any canal or inland navigation of any alterations in the flow of the stream;

and shall secure, so far as practicable, the protection of the rights of riparian owners and of other owners of land or salmon fishings.

[^{F135}(5A) Before making an order for the compulsory acquisition of water rights, and in considering the matters referred to in subsections (3) to (5), the Scottish Ministers shall—

- (a) obtain and have regard to the advice of the Scottish Environment Protection Agency on matters relating to the protection of the water environment (and in

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particular as to the extent to, and the circumstances in, which water may be taken and the quantity of compensation water to be provided); and

- (b) have regard to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003 (asp 3).

(5B) In the event that the provisions of an order for the compulsory acquisition of water rights which makes provision on matters relating to the protection of the water environment and the conditions of an authorisation granted under the Water Environment (Controlled Activities)(Scotland) Regulations 2005 differ, and cannot reasonably be reconciled, the relevant provisions of that order shall be treated as modified to the extent necessary to be consistent with the conditions of that authorisation.]

(6) ^{F136}

(7) The provisions of Part I of Schedule 1 shall apply to the making of applications and orders under subsection (2).

Textual Amendments

- F121** Words in s. 17(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 14\(2\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F122** Words in s. 17(1)-(4) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(10)(a)-(d), [Sch. 14](#); S.I. 1996/323, [art. 4\(1\)\(c\)\(d\), Sch. 2](#)
- F123** Words in s. 17(1) omitted (1.4.2006) by virtue of [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\), art. 2, Sch. Pt. IV](#) {para. 4(2)(a)} (with Sch. Pt. III para. 6)
- F124** Words in s. 17(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 14\(3\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F125** Word in s. 17(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 14\(3\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F126** Words in s. 17(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 14\(3\)\(c\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F127** Words in s. 17(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 14\(4\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F128** S. 17(3)(a) and the following "or" omitted (1.4.2006) by virtue of [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\), art. 2, Sch. Pt. IV](#) {para. 4(2)(b)(i)} (with Sch. Pt. III para. 6)
- F129** Words in s. 17(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 14\(4\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F130** Words in s. 17(3) substituted (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\), art. 2, Sch. Pt. IV](#) {para. 4(2)(b)(ii)} (with Sch. Pt. III para. 6)
- F131** Words in s. 17(4) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 14\(4\)\(c\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F132** S. 17(4)(a) and the following "or" omitted (1.4.2006) by virtue of [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\), art. 2, Sch. Pt. IV](#) {para. 4(2)(c)} (with Sch. Pt. III para. 6)
- F133** Words in s. 17(5) inserted (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\), art. 2, Sch. Pt. IV](#) {para. 4(2)(d)(i)} (with Sch. Pt. III para. 6)

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- F134** Words in s. 17(5) omitted (1.4.2006) by virtue of [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 2, **Sch. Pt. IV** {para. 4(2)(d)(ii)} (with Sch. Pt. III para. 6)
- F135** S. 17(5A)(5B) inserted (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 2, **Sch. Pt. IV** {para. 4(2)(e)} (with Sch. Pt. III para. 6)
- F136** S. 17(6) omitted (1.4.2006) by virtue of [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 2, **Sch. Pt. IV** {para. 4(2)(f)} (with Sch. Pt. III para. 6)

18 Compulsory acquisition of land for water works.

- (1) Subject to the provisions of this section, an order under section 17 may authorise [^{F137}Scottish Water] to acquire compulsorily such land as may be necessary for the purposes of the order, being land which [^{F138}Scottish Water]^{F139} could be authorised for to acquire under [^{F140}section 47 of the Water Industry (Scotland) Act 2002 (asp 3)] .
- (2) The provisions of Schedule 2 shall have effect in relation to an order under section 17 which authorises any such acquisition of land.

Textual Amendments

- F137** Words in s. 18(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 15(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F138** Words in s. 18(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 15(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F139** Words in s. 18(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(11)(a), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F140** Words in s. 18(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 15(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

19 ^{F141}

Textual Amendments

- F141** S. 19 repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\)](#), ss. 25, 41, Sch. 2 para. 39, **Sch. 4**

^{F142}20

Textual Amendments

- F142** S. 20 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(12), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

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^{F143}21 Power to carry out works.

^{F144}(1) [Without prejudice to any other powers which ^{F145}it] may have, ^{F146}Scottish Water] may, for the purposes of providing a supply of water under this Act and subject to its provisions—

- (a) construct, alter, acquire by purchase, lease or otherwise, or renew or maintain, waterworks;
- (b) so acquire any undertaking belonging to persons, ^{F147}. . . , who are supplying or are authorised to supply water;
- (c) so acquire premises to be used for the purposes of ^{F148}Scottish Water] and maintain such premises;
- (d) contract with any person for a supply by him of water in bulk or otherwise; or
- (e) erect and maintain a house for the use of a person employed by ^{F149}it] for the purposes of ^{F150}its] undertaking.

[For the avoidance of doubt, all waterworks constructed in pursuance of subsection (1) ^{F151}(2) above (whether before or after the commencement of this subsection)vest in Scottish Water.]]

Textual Amendments

F143 S. 21 substituted (1.4.1996) by 1994 c. 39, s. 108 (with s. 74(4)); S.I. 1996/323, art. 4(1)(a), **Sch. 1**

F144 S. 21 renumbered as s. 21(1) (6.3.2006) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 32(1)(a) (with s. 35(2)); S.S.I. 2006/55, art. 2

F145 Word in s. 21 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 16(a)** (with s. 67); S.S.I. 2002/118, art. 2(3)

F146 Words in s. 21 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 16(b)** (with s. 67); S.S.I. 2002/118, art. 2(3)

F147 Words in s. 21(b) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 16(c)** (with s. 67); S.S.I. 2002/118, art. 2(3)

F148 Words in s. 21(c) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 16(d)** (with s. 67); S.S.I. 2002/118, art. 2(3)

F149 Word in s. 21(e) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 16(e)(i)** (with s. 67); S.S.I. 2002/118, art. 2(3)

F150 Word in s. 21(e) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 16(e)(ii)** (with s. 67); S.S.I. 2002/118, art. 2(3)

F151 S. 21(2) inserted (6.3.2006) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 32(1)(b) (with s. 35(2)); S.S.I. 2006/55, art. 2

22 Power to break open streets.

^{F152}(1) The provisions of Part I of Schedule 3 shall have effect in relation to the breaking open of ^{F153}roads] by ^{F154}Scottish Water] ^{F155} for the purpose of carrying out any works which ^{F156}it is] authorised to execute by or under this Act or any local enactment incorporating any provisions of Schedule 4.

^{F157}(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,

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as it has in relation to works carried out by Scottish Water.]

Textual Amendments

- F152** S. 22(1): s. 22 renumbered as s. 22(1) (10.7.2008) by [Water Environment and Water Services \(Scotland\) Act 2003 \(asp 3\)](#), s. 38(1), **sch. 4 para. 1(a)**; S.S.I. 2008/269, art. 2(d)
- F153** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 81(4)**
- F154** Words in s. 22 substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 17(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F155** Words in s. 22 repealed (1.4.1996) by 1994 c. 33, s. 180(1)(2), **Sch. 13 para. 119(13)**, **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F156** Words in s. 22 substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 17(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F157** S. 22(2) inserted (10.7.2008) by [Water Environment and Water Services \(Scotland\) Act 2003 \(asp 3\)](#), s. 38(1), **sch. 4 para. 1(b)**; S.S.I. 2008/269, art. 2(d)

23 Power to lay mains, etc.

- (1) [^{F158}Scottish Water] or ^{F159} ... may for the purposes of [^{F160}its] functions lay a main—
- (a) in, under or over any [^{F161}roads] or under any cellar or vault below any [^{F161}roads] after giving reasonable notice to [^{F161}—
 - (i) where the road is a public road, the roads authority; and
 - (ii) in any other case, the authority or person responsible for the maintenance of the road, or, if no authority or person is so responsible, to the owners of the solum of the road,], and
 - (b) in, on or over any land not forming part of a [^{F162}road], after giving reasonable notice to the owner and the occupier of that land;

and may from time to time inspect, repair, maintain, alter, or renew or may at any time remove a main previously laid whether by virtue of this section or otherwise.

[^{F163}(1ZA) Section 192 of the Local Government (Scotland) Act 1973 (c.65)(service of notices) shall apply to notices served by Scottish Water under subsection (1) above relating to land as it applies to notices served by a local authority relating to premises.]

[^{F164}(1A) If within two months after the service of a notice under subsection (1)(b) above the owner or occupier objects to [^{F165}Scottish Water] about the proposed works (and that objection is not withdrawn), [^{F166}Scottish Water] shall not proceed to lay the main but shall refer the matter by summary application to the sheriff, who may—

- (a) grant consent to the proposed works, either unconditionally or subject to such terms and conditions as he thinks just; or
- (b) withhold his consent;

and the decision of the sheriff on the matter shall be final.]

- (2) Where [^{F167}Scottish Water]^{F159} ... in the exercise of [^{F168}its] powers under this section lay a main in, on or over any land not forming part of a [^{F169}road], or inspect, repair, maintain, alter, renew or remove a main laid in or over any such land, [^{F170}it] shall from time to time pay compensation to every person interested in that land for any damage done to or injurious affection of that land by reason of the laying, inspection, repair, maintenance, alteration, renewal or removal of the main; and any question as to the amount of compensation to be paid under this subsection shall, in case of dispute, be determined by arbitration.

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- [^{F171}(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.]
- [^{F171}(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) [^{F172}Scottish Water]^{F159} ... may erect and maintain in any [^{F173}road] notices indicating the position of underground water fittings used for controlling the flow of water through [^{F174}its] mains whether laid by virtue of this section or otherwise and may affix such a notice to any house or other building, or any wall or fence.
- [^{F175}(4) In the case of works in respect of which notice is required to be given under section 114 of the New Roads and Street Works Act 1991 (notice of starting date of road works), notice duly given to a person in accordance with that section and section 156 of that Act (service of notice) shall be treated as reasonable notice for the purposes of subsection [^{F173}(1)(a)] above.]
- [^{F176}(5) For the avoidance of doubt, all mains laid in pursuance of subsection (1) above (whether laid before or after the commencement of this subsection) vest in Scottish Water.]

Textual Amendments

- F158** Words in s. 23(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 18(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F159** Words in s. 23(1)-(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(14)(a)(b)(c), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F160** Word in s. 23(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 18(2)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F161** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 81(5)(a)(i)**
- F162** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 81(5)(a)(ii)**
- F163** S. 23(1ZA) inserted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 18(3)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F164** S. 23(1A) inserted (1.4.1996) by 1994 c. 39, s. 109 (with s. 74(4)); S.I. 1996/323, art. 4(1)(a), **Sch. 1**
- F165** Words in s. 23(1A) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 18(4)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F166** Words in s. 23(1A) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 18(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F167** Words in s. 23(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 18(5)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F168** Word in s. 23(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 18(5)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F169** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 81(5)(b)**
- F170** Word in s. 23(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 18(5)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F171** S. 23(2A)(2B) inserted (10.7.2008 for the insertion of s. 23(2B)) by [Water Environment and Water Services \(Scotland\) Act 2003 \(asp 3\)](#), s. 38(1), **sch. 4 para. 2**; S.S.I. 2008/269, art. 2(e)
- F172** Words in s. 23(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 18(6)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

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- F173** Words in s. 23(3)(4) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119**(14(c)(ii)(d); S.I. 1996/323, **art. 4(1)(c)**)
- F174** Word in s. 23(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 18(6)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**)
- F175** S. 23(4) inserted (1.1.1993) by New Roads and Street Works Act 1991 (c.22, SIF 59, 108), s. 168(1), **Sch. 8, Pt. IV, para. 108(4)**; S.I. 1992/2990, art. 2(2), **Sch. 2**)
- F176** S. 23(5) inserted (6.3.2006) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. **32(2)** (with s. 35(2)); S.S.I. 2006/55, **art. 2**)

[^{F177}23A Laying of mains and communication pipes by persons other than Scottish Water

- (1) Without prejudice to sections 23 and 24 (including any power under those sections to authorise the laying of mains or communication pipes on its behalf), Scottish Water may authorise a person to lay a main or communication pipe which is to connect with a main vested in it—
 - (a) in, under or over any road or under any cellar or vault below any road, or
 - (b) in, on or over any land which does not form part of a road and is not land as respects which that person is owner, lessee or occupier.
- (2) Where Scottish Water gives an authorisation to any person under subsection (1) in relation to a main, subsections (1) to (2) of section 23, so far as relating to the laying of a main shall apply in respect of that person as they apply in respect of Scottish Water.
- (3) Where—
 - (a) a main or communication pipe (not being a main pipe or laid by or on behalf of Scottish Water) is laid by any person, and
 - (b) the main or pipe connects with a main vested in Scottish Water,the main or, as the case may be, the communication pipe shall vest in Scottish Water.
- (4) Notwithstanding subsection (3), Scottish Water may, before the completion of a main or communication pipe to which that subsection applies, determine that the main or pipe, or any part of it, shall vest in the person who laid it and that that person shall have sole responsibility for its management, maintenance and renewal.
- (5) Scottish Water shall give notice of a determination under subsection (4) to the person who laid the main or communication pipe.
- (6) Where—
 - (a) a main or communication pipe (not being a main or pipe laid by or on behalf of Scottish Water) is laid by any person, and
 - (b) the main or pipe does not connect with a main vested in Scottish Water,the main or, as the case may be, the communication pipe shall vest in the person who laid it, who shall have sole responsibility for its management, maintenance and renewal.
- (7) Notwithstanding subsections (4) and (6), Scottish Water may at any time enter into an agreement under which the main or communication pipe in question, or any part of it, shall vest in it.
- (8) An agreement under subsection (7) relating to a main or communication pipe to which subsection (3) applies—
 - (a) is subject to—

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- (i) the condition that the main or pipe shall vest in Scottish Water only if it complies with the construction standards specified by virtue of section 23B, so far as applicable,
 - (ii) such further conditions as Scottish Water may require to be included in the agreement by virtue of section 23C, and
- (b) shall not take effect until the person who laid the main or pipe provides such security as Scottish Water may reasonably require for the performance of that person's obligations under the agreement by virtue of paragraph (a)(ii).]

Textual Amendments

F177 Ss. 23A-23C inserted (10.7.2008) by [Water Environment and Water Services \(Scotland\) Act 2003 \(asp 3\)](#), **ss. 31, 38(1)** (with s. 35(2)); S.S.I. 2008/269, art. 2(b)

[^{F177}23B Construction standards for mains and communication pipes to vest in Scottish Water

- (1) In relation to a main or communication pipe to which subsection (3) of section 23A applies, the construction standards referred to in subsection (8)(a)(i) of that section are such standards as the Scottish Ministers may, by regulations, specify.
- (2) The standards which may be specified in regulations under subsection (1) include standards specified in or under other enactments.
- (3) Regulations under subsection (1) may make different provision in relation to different cases or descriptions of case.
- (4) Before making regulations under subsection (1) the Scottish Ministers must consult—
 - (a) Scottish Water, and
 - (b) such other persons as they consider appropriate.]

Textual Amendments

F177 Ss. 23A-23C inserted (10.7.2008) by [Water Environment and Water Services \(Scotland\) Act 2003 \(asp 3\)](#), **ss. 31, 38(1)** (with s. 35(2)); S.S.I. 2008/269, art. 2(b)

[^{F177}23C Vesting conditions for mains and communication pipes

- (1) For the purposes of subsection (8)(a)(ii) of section 23A, Scottish Water may require the inclusion in an agreement under subsection (7) of that section of conditions (“vesting conditions”) as to—
 - (a) any sum to be paid by Scottish Water to the person who laid the main or communication pipe in respect of its laying,
 - (b) the liability of that person to pay Scottish Water sums in respect of Scottish Water's costs in relation to the main or pipe, including in particular the costs of—
 - (i) maintaining, repairing and renewing the main or pipe and such water mains, communication pipes and other waterworks constructed, and work carried out, as are mentioned in sub-paragraph (iii),
 - (ii) connecting the main or pipe to a main vested in Scottish Water,

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- (iii) constructing such water mains, communication pipes and other waterworks, and carrying out such other work, as Scottish Water considers necessary in consequence of the connection.
- (2) The Scottish Ministers may by regulations make provision as to—
- (a) the provisions to be included, by virtue of subsection (1) of this section, as vesting conditions in an agreement under section 23A(7),
 - (b) cases in relation to which subsection (1) of this section does not apply, or applies with modifications.
- (3) Regulations under subsection (2) may, in particular, make provision—
- (a) for determining the sum (if any) to be paid by Scottish Water by virtue of subsection (1)(a),
 - (b) for determining the liability, by virtue of subsection (1)(b), of the person who laid the main or communication pipe by reference to such matters, criteria and methods of calculation as the regulations may specify,
 - (c) as to when sums due under the vesting conditions are payable,
 - (d) as to the security which Scottish Water is entitled to require under section 23A(8)(b).
- (4) Regulations under subsection (2) may make different provision in relation to different descriptions of person and different cases or descriptions of case.]

Textual Amendments

F177 Ss. 23A-23C inserted (10.7.2008) by [Water Environment and Water Services \(Scotland\) Act 2003 \(asp 3\)](#), **ss. 31, 38(1)** (with [s. 35\(2\)](#)); [S.S.I. 2008/269](#), [art. 2\(b\)](#)

24 Communication and supply pipes.

- (1) Where a service pipe is required to be laid for the purpose of supplying water to premises for domestic purposes, the water authority providing the supply shall lay the communication pipe and also so much of the supply pipe as is to be laid in a ^{F178}road].
- (2) The provisions of Part II of Schedule 3 shall apply to all water authorities.
- (3) All communication pipes whether laid before or after the commencement of this Act shall vest in the water authority and the authority shall at their own expense carry out any necessary work of maintenance, repair or renewal of such pipes and any work on their mains incidental thereto.
- (4) The water authority shall also carry out any such necessary works in the case of so much of any supply pipe as is laid in a ^{F178}road][^{F179}and is not, by virtue of any of subsections (5) to (8) below, vested in them] and may recover from the owner of the premises the expenses reasonably incurred by them in so doing, but without prejudice to the rights and obligations as between themselves of the owner and the occupier of the premises ^{F180}and to the terms and conditions of any such agreement as is mentioned in subsection (8) below].
- ^{F181}(5) Where the laying of a supply pipe is completed after such day as the Secretary of State may under this subsection by order appoint, so much of that pipe as may lie between a communication pipe with which it connects and the curtilage of the premises supplied shall, on such completion, vest in the water authority in whom is vested the

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communication pipe as shall any apparatus used wholly or mainly in connection with that supply pipe; and a supply pipe in so far as so lying is, together with any apparatus so used in connection with it, referred to in the following provisions of this section as a “relevant supply pipe”.

(6) Subject to subsection (7) below, on such day as the Secretary of State may by order appoint, a relevant supply pipe which is not then vested in any water authority (and whose laying is complete) shall vest in the water authority in whom the communication pipe is vested.

(7) Subsection (6) above shall have no effect in relation to any relevant supply pipe in respect of which notice is both given and not withdrawn, within the period of three months before the day appointed under that subsection—

(a) to the water authority in question by the person (or as the case may be any one of the persons) in whom the pipe is, or will immediately before that day be, vested stating that he does not wish the pipe to vest in the water authority under that subsection; or

(b) to such person (or as the case may be persons) by the water authority stating that the pipe is inappropriate for the purpose of supplying water to the premises, whether by reason of its state of repair or otherwise,

but at any time after the appointed day the person, or as the case may be persons, in whom the pipe is vested may by notice specify a day on which he desires (or they desire) that the pipe shall vest in the authority and if the pipe is on that specified day appropriate for the purpose of supplying water to the premises it shall vest accordingly.

(8) If a relevant supply pipe does not vest in a water authority by virtue of subsection (6) or (7) above, the pipe may nevertheless vest by agreement in the authority—

(a) on such terms and conditions; and

(b) as from such day after the appointed day,

as the person (or persons) and the water authority consider appropriate.

(9) The water authority shall, at their own expense, carry out any necessary work of maintenance, repair or renewal of relevant supply pipes vested in them by virtue of any of subsections (5) to (7) above; but this subsection is without prejudice to the terms and conditions of any such agreement as is mentioned in subsection (8) above.

(10) Any dispute arising under subsection (7) above as to whether—

(a) a notice under paragraph (b) of that subsection should be withdrawn as unjustified;

(b) apparatus is used wholly or mainly in connection with a supply pipe; or

(c) on a specified day a relevant supply pipe is appropriate for the purpose of supplying water to the premises,

shall be referred by the person or persons in whom the pipe is vested to the Secretary of State, who may determine the dispute himself or, if he thinks fit, refer it for determination by arbitration.]

Textual Amendments

F178 Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 81\(6\)](#)

F179 Words in s. 24(4) inserted (1.4.1996) by [1994 c. 39, s. 110\(a\)\(i\)](#) (with s. 74(4)); S.I. 1996/323, art. 4(1) (a), [Sch. 1](#)

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- F180** Words in s. 24(4) added (1.4.1996) by 1994 c. 39, s. 110(a)(ii) (with s. 74(4)); S.I. 1996/323, art. 4(1)(a), **Sch. 1**
- F181** S. 24(5)-(10) added (1.4.1996) by 1994 c. 39, s. 110(b) (with s. 74(4)); S.I. 1996/323, art. 4(1)(a), **Sch. 1**

[^{F182}24A Keeping of map showing water mains, etc.

- (1) [^{F183}Scottish Water] shall keep deposited at [^{F184}its] principal office a map showing and distinguishing so far as is reasonably practicable all water mains, communication pipes and supply pipes which are vested in [^{F185}it] by virtue of this Act or of [^{F186}the Water Industry (Scotland) Act 2002 (asp 3)]; and [^{F187}Scottish Water] shall provide reasonable facilities at that office for inspection of the 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 [^{F187}Scottish Water] may determine.
- (2) [^{F188}Scottish Water] shall keep deposited at such of [^{F189}its] offices, other than [^{F189}its] principal office, as [^{F190}it considers] appropriate, a copy relevant to the office in question of part of the map mentioned in subsection (1) above; and [^{F191}Scottish Water] 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, [^{F192}it does] in relation to the map mentioned in that subsection at [^{F189}its] principal office.
- (3) For the purposes of subsection (2) 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 [^{F193}Scottish Water] to be appropriate having regard to the geographical location of that office.]

Textual Amendments

- F182** S. 24A inserted (1.4.1996) by 1994 c. 39, s. 111 (with s. 74(4)); S.I. 1996/323, art. 4(1)(a), **Sch. 1**
- F183** Words in s. 24A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 19(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F184** Word in s. 24A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 19(2)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F185** Words in s. 24A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 19(2)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F186** Words in s. 24A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 19(2)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F187** Words in s. 24A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 19(2)(e)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F188** Words in s. 24A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 19(3)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F189** Word in s. 24A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 19(3)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F190** Words in s. 24A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 19(3)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F191** Words in s. 24A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 19(3)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F192** Words in s. 24A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 19(3)(e)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F193** Words in s. 24A(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 19(4)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

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[^{F194}24B Works in connection with metering

- (1) This section applies where, in relation to any premises (“the premises concerned”), the conditions specified in subsection (2) are satisfied.
- (2) The conditions referred to in subsection (1) are that—
 - (a) Scottish Water is supplying or proposes to supply water to the premises,
 - (b) such supply is or is to be by meter, and
 - (c) there is a service pipe which is connected with a water main vested in Scottish Water and by which a supply of water is or could be provided to those premises.
- (3) Where this section applies, Scottish Water may serve a notice on the owner of the premises concerned requiring the execution, within such period of not less than 3 months as the notice shall specify, of such of the works mentioned in subsection (4) as the notice may specify.
- (4) The works referred to in subsection (3) are, in relation to the premises concerned—
 - (a) works consisting of the installation and connection of any meter for use in determining the quantity of water supplied to the premises,
 - (b) where a supply of water is or could be provided by the service pipe referred to in subsection (2)(c) to other premises as well as the premises concerned, works consisting of the installation, for any purpose connected with the installation or connection of such a meter, of a separate service pipe for the premises concerned, but only to the extent that such a pipe will constitute a supply pipe and is not required to be laid in a road,
 - (c) works for the purpose of maintaining, repairing, disconnecting or removing—
 - (i) any meter which has been installed for use in determining the quantity of water supplied to the premises, or
 - (ii) any pipes or apparatus installed in the course of any works specified in this section, and
 - (d) any other works appearing to Scottish Water to be necessary or expedient for any purpose connected with the carrying out of any works specified in paragraph (a), (b) or (c), including the installation and connection of any pipes or other apparatus on the premises and the alteration or removal of any of the plumbing of the premises.
- (5) In the case of any of the works mentioned in paragraph (a) of subsection (4) and paragraph (c)(i) of that subsection so far as relating to maintenance and repair of a meter, Scottish Water may execute the works itself instead of requiring the owner, under subsection (3), to execute the works.
- (6) If an owner upon whom a notice has been served under subsection (3) fails to comply with it, Scottish Water may itself execute the works which the owner was required by the notice to execute.
- (7) Where Scottish Water has served a notice under that subsection requiring the execution of the works mentioned in paragraph (b) of subsection (4), it shall, within 14 days after those works have been executed, lay so much of the separate service pipe referred to in that paragraph as will constitute a communication pipe or a supply pipe to be laid in a road and shall make all necessary connections.
- (8) Scottish Water may recover from the owner of the premises concerned any expenses reasonably incurred by it in executing any works under subsection (5), (6) or (7).

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- (9) Subsection (8) is without prejudice to the rights and obligations, as between themselves, of the owner and occupier of the premises.]

Textual Amendments

F194 S. 24B inserted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 64 (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

25 Power of authority to provide public wells.

- (1) A [^{F195}local authority] or [^{F196} Scottish Water] may construct and maintain public pumps, wells, stand-pipes or other works for supplying water for the use of the inhabitants within their [^{F195}area] or, as the case may be, [^{F197}its] limits of supply.
- (2) [^{F198}A local authority] may erect and maintain or authorise to be erected and maintained in any [^{F199}road] or public place within their area ^{F200}any drinking fountain or trough; but [^{F201}where the Secretary of State is the roads authority][^{F202}there shall be no such erection by the [^{F203}the local authority] without [^{F204}his] consent] which consent shall not be unreasonably withheld.

Textual Amendments

- F195** Words in s. 25(1) substituted (1.4.1996) by [1994 c. 39](#), s. 180(1), [Sch. 13 para. 119\(15\)\(a\)](#); S.I. 1996/323, [art. 4\(1\)\(c\)](#)
- F196** Words in s. 25(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 20\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F197** Word in s. 25(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 20\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F198** Words in s. 25(2) substituted (1.4.1996) by [1994 c. 39](#), s. 180(1), [Sch. 13 para. 119\(15\)\(b\)\(i\)](#); S.I. 1996/323, [art. 4\(1\)\(c\)](#)
- F199** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 81\(7\)\(a\)](#)
- F200** Words in s. 25(2) repealed (1.4.1996) by [1994 c. 39](#), s. 180(1)(2), [Sch. 13 para. 119\(15\)\(b\)\(ii\)](#), [Sch. 14](#); S.I. 1996/323, [art. 4\(1\)\(c\)\(d\)](#), [Sch. 2](#)
- F201** Words in s. 25(2) inserted (1.4.1996) by [1994 c. 39](#), s. 180(1), [Sch. 13 para. 119\(15\)\(b\)\(iii\)](#); S.I. 1996/323, [art. 4\(1\)\(c\)](#)
- F202** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 81\(7\)\(b\)](#)
- F203** Words in s. 25(2) substituted (1.4.1996) by [1994 c. 39](#), s. 180(1), [Sch. 13 para. 119\(15\)\(b\)\(iv\)](#); S.I. 1996/323, [art. 4\(1\)\(c\)](#)
- F204** Word in s. 25(2) substituted (1.4.1996) by [1994 c. 39](#), s. 180(1), [Sch. 13 para. 119\(15\)\(b\)\(v\)](#); S.I. 1996/323, [art. 4\(1\)\(c\)](#)

26 Power to close, or restrict use of, wells.

- If a [^{F205}local authority][^{F206}are or Scottish Water is] satisfied that—
- ^{F207}(a) any public well, drinking fountain or other work within their [^{F205}area] or, as the case may be, [^{F208}its] limits of supply and vested in them [^{F209}or, as the case may be, it] or any work constructed under section 25 is no longer required, or
- (b) the water obtained therefrom is so polluted as to be injurious or dangerous to health and that it is not reasonably practicable to remedy the cause of the pollution,

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they may close the well, fountain or other work or restrict the use of the water obtained from it.

Textual Amendments

- F205** Words in s. 26 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(16)(a)(b)**; S.I. 1996/323, **art. 4(1)(c)**
- F206** Words in s. 26 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 21(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F207** By Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 21(b)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**, it is provided that the words "or, as the case may be, it" be inserted after "they" in s. 26(a) (1.4.2002)
- F208** Word in s. 26(a) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 21(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F209** Words in s. 26(a) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 21(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

27 Power to close, or restrict use of water from, polluted source.

- (1) If [^{F210}a local authority] are of opinion that the water in or obtained from any source of supply not vested in them, being water which is or is likely to be used within their area ^{F211} for domestic purposes or in the preparation of food or drink for human consumption, is or is likely to become so polluted as to be injurious or dangerous to health, [^{F210}they] may apply to the sheriff who, after giving the person to whom the source of supply belongs and any other person alleged to have control of the source of supply an opportunity of being heard, may make—
- (a) an order directing the source of supply to be permanently or temporarily closed or cut off, or
 - (b) an order directing the water from the the source of supply to be used for certain purposes only, or
 - (c) such other order as appears to him to be necessary to prevent injury or danger to the health of persons using the water or consuming food or drink prepared with or from the water.
- (2) The sheriff shall hear any person using the water who claims to be heard and may cause the water to be analysed and examined at the cost of the [^{F210}local authority].
- (3) If a person on whom an order is made under this section fails to comply with it the sheriff may, on the application of the [^{F210}local authority], authorise [^{F210}them] to do whatever may be necessary for giving effect to the order, and any expenses reasonably incurred by [^{F210}them] in so doing may be recovered by them from the person in default.

Textual Amendments

- F210** Words in s. 27(1)-(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(17)**; S.I. 1996/323, **art. 4(1)(c)**
- F211** Words in s. 27(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), **Sch. 13 para. 119(17)(a)(ii)**, **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**

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28 Water works code.

- (1) For the purpose of enabling [^{F212}Scottish Water]^{F213} to supply water under this Part the following provisions of Schedule 4 shall, subject to any necessary modifications, apply to this Part, that is to say—
- (a)^{F214}
 - (b) Part V;
 - (c) Part VII;
 - (d) Part VIII; and
 - (e) sections 40, 41 and 45 of Part IX.
- (2) For the purposes of construction of any reservoir, filter or distribution tank or works connected therewith, sections 25 to 37 of the ^{M2}Railways Clauses Consolidation (Scotland) Act 1845 (which relate to the temporary occupation of lands near the railway during its construction) shall apply to this Part subject to the modifications that for references to the company, to the railway and to the centre of the railway there shall be substituted respectively references to [^{F215}Scottish Water]^{F213}, to the reservoir, filter, distribution tank or works and to the boundaries of the reservoir, filter, distribution tank or works, and for any reference to a justice or justices there shall be substituted a reference to the sheriff, and the prescribed limits shall be 200 yards from such boundaries.

Textual Amendments

- F212** Words in s. 28(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 22(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F213** Words in s. 28(1)(2) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(18), **Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2**
- F214** S. 28(1)(a) repealed by Telecommunications Act 1984 (c. 12, SIF 96), ss. 2, 109, **Sch. 7 Pt. I**
- F215** Words in s. 28(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 22(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

Marginal Citations

- M2** 1845 c. 33.

29 Applications of enactments by order.

- (1) The Secretary of State may by any order under section ^{F216}. . . 17 apply to any water undertaking to which the order relates such of the provisions contained in Schedule 4 as appear to him to be appropriate, subject to such modifications and adaptations as may be specified in the order.
- (2) The Secretary of State may at any time by order apply the provisions of Schedule 4 or any of them to the undertaking of [^{F217}Scottish Water]^{F218}, subject to such modifications and adaptations as may be specified in the order, and may by the order repeal any provision previously applicable to the undertaking to the extent to which it appears to him, having regard to the provisions of this Act which apply or are applied by the order to the undertaking, to be no longer required, or amend any provision previously applicable to the undertaking to any extent which appears to him necessary to bring it into conformity with the said provisions of this Act.

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- (3) The provisions of Part I of Schedule 1 shall apply to an order made under subsection (2) on the application of [^{F219}Scottish Water], and the provisions of Part II of that Schedule shall apply to an order so made without any such application.

Textual Amendments

- F216** Words in s. 29(1) repealed (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 23(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F217** Words in s. 29(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 23(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F218** Words in s. 29(2)(3) repealed (1.4.1996) by [1994 c. 39](#), s. 180(1)(2), Sch. 13 para. 119(19), **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**
- F219** Words in s. 29(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 23(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

^{F220}30

Textual Amendments

- F220** S. 30 repealed (1.4.1996) by [1994 c. 39](#), s. 180(1)(2), Sch. 13 para. 119(20), **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**

31 Consultation with authorities in England.

- (1) Where the limits of supply of [^{F221}Scottish Water] adjoin any part of England and it appears to [^{F222}Scottish Water] that there may be water in watercourses or underground strata in that part of England, or in the limits of supply, which could be transferred from that part of England to the limits of supply, or from the limits of supply to that part of England, as the case may be, [^{F223}Scottish Water] shall, insofar as [^{F224}it considers] it appropriate to do so, consult with

[^{F225}(a)] the [^{F226}water undertakers] and other appropriate authorities in that part of England with a view to securing the best use of that water in the public interest [^{F227}; and

[^{F228}(b)] the Scottish Environment Protection Agency.]

- (2) In subsection (1) the reference to water in underground strata shall be construed as a reference to water contained in strata subjacent to the surface of any land otherwise than in a sewer, pipe, reservoir, tank or other underground works constructed in any such strata.

Textual Amendments

- F221** Words in s. 31(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 24(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F222** Words in s. 31(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 24(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F223** Words in s. 31(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 24(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

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- F224** Words in s. 31(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 24\(d\)](#) (with s. 67); [S.S.I. 2002/118, art. 2\(3\)](#)
- F225** “(a)” inserted (1.10.1991) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1, 130\), s. 27\(1\), Sch. 10 para. 9\(2\)\(a\)](#)
- F226** Words substituted by [Water Act 1989 \(c. 15, SIF 130\), s. 190, Sch. 25 para. 60\(1\)](#) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F227** Word “;and” and s. 31(1)(b) inserted (1.10.1991) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1, 130\), s. 27\(1\), Sch. 10 para. 9\(2\)\(b\)](#)
- F228** S. 31(1)(b) substituted (1.4.1996) by [1995 c. 25, s. 120, Sch. 22 para. 34\(2\); S.I. 1996/186, art. 3](#)

32 Power of water undertakers to supply water to water authorities.

- (1) Any person supplying water, whether under statutory powers or not, may—
 - (a) contract to supply water to [^{F229}Scottish Water]; or
 - (b) ^{F230} sell or lease to [^{F229}Scottish Water] all or any of his waterworks and all his rights, powers and privileges attaching thereto but subject to all liabilities attaching thereto.

^{F231}(2)

Textual Amendments

- F229** Words in s. 32(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 25](#) (with s. 67); [S.S.I. 2002/118, art. 2\(3\)](#)
- F230** Words in s. 32(1)(b) repealed (1.4.1996) by [1994 c. 39, s. 180\(1\)\(2\), Sch. 13 para. 119\(21\)\(a\), Sch. 14; S.I. 1996/323, art. 4\(1\)\(c\)\(d\), Sch. 2](#)
- F231** S. 32(2) repealed (1.4.1996) by [1994 c. 39, s. 180\(1\)\(2\), Sch. 13 para. 119\(21\)\(b\), Sch. 14; S.I. 1996/323, art. 4\(1\)\(c\)\(d\), Sch. 2](#)

33 Temporary discharge of water into watercourses.

- (1) Subject to this section [^{F232}where Scottish Water is carrying out or is] about to carry out the construction, alteration, repair, cleaning or examination of any reservoir, well or borehole, line of pipes or other work forming part of [^{F233}its] undertaking [^{F234}, it] may cause the water therein to be discharged into any available watercourse, and for that purpose may lay and maintain in any [^{F235}road] or in any land not forming part of a [^{F235}road], ^{F236} . . . ^{F237}, all necessary discharge pipes and apparatus; and such statutory provisions with respect to the breaking open of [^{F235}roads] as are applicable to [^{F238}Scottish Water]^{F237} shall, with any necessary modifications and adaptations, apply accordingly.
- (2) The power conferred by subsection (1) to lay and maintain discharge pipes and apparatus in land, other than land forming part of a [^{F239}road], shall not be exercised unless reasonable notice has been given to the owner and the occupier of that land.
- (3) Except in a case of emergency and except insofar as may be otherwise agreed in writing between [^{F240}Scottish Water]^{F241} and the authority or board concerned, [^{F240}Scottish Water]^{F241} shall—
 - (a) not less than seven days before commencing to discharge any such water through a pipe exceeding nine inches in diameter, give notice of [^{F242}its] intentions

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- [^{F243}(i)] to the fishery district board of any fishery district within which
^{F244}(ii)
- any watercourse into which the water is to be discharged is situated; [^{F245}and
(ii) to the Scottish Environment Protection Agency.]
- (b) have due regard to any representations which may be made to [^{F246}it] as to the time, mode and rate of discharge with a view to avoiding or minimising injury or inconvenience therefrom; and
- (c) where the water is to be discharged into any river, canal or other inland navigation in respect of which a navigation authority exercise functions, not discharge the water without the written approval of the navigation authority, or except at such times as that authority may approve and in a manner approved by [^{F247}it] as not likely to injure the river, canal or navigation or the banks thereof, or interfere with traffic thereon.
- (4) Whenever [^{F248}Scottish Water proposes] to discharge water on a number of occasions during a period, the giving by [^{F249}it] of a general notice to that effect, accompanied by such particulars as it is reasonably practicable for [^{F249}it] to give, shall constitute sufficient compliance by [^{F250}it] with the provisions of subsection (3)(a).
- (5) In the case of a river, subsection (3)(c) shall not apply if the point of discharge into the river is more than three miles above the limits within which the navigation authority exercise jurisdiction.
- (6) An approval under subsection (3)(c)—
- (a) shall not be withheld unreasonably, and any question whether it is withheld unreasonably or not shall be determined by the Secretary of State;
- (b) shall be deemed to have been given unless notice of disapproval is given to [^{F251}Scottish Water]^{F252} within seven days after the making of the application for the approval.
- (7) If [^{F253}Scottish Water is] requested by—
- (a) the owner or occupier or any land which abuts on a watercourse at a point within three miles of any work of [^{F254}Scottish Water]^{F252} from which water may be discharged into that watercourse under this section, or
- (b) the clerk to any association of mill owners any of whose constituent members is such an owner or occupier, or
- (c) the owner or occupier of a salmon fishing on a watercourse at such a point if such watercourse is within a fishery district for which no fishery district board has been constituted,
- to register him for the purposes of this section, [^{F254}Scottish Water]^{F252} shall enter his name and address in a register kept by [^{F255}it] for the purpose and, so long as his name and address appear in the register, shall, except in a case of emergency and except insofar as may be otherwise agreed with him in writing, and unless the point at which the water is to be discharged is situated downstream of the land in respect of which he is so registered, send to him in respect of that watercourse the like notices as [^{F256}it is](in the absence of any emergency or agreement to the contrary) required under subsection (3)(a) to send to a fishery district board.
- (8) Except insofar as may be otherwise agreed in writing, where [^{F257}Scottish Water discharges] water during an emergency, [^{F258}it] shall forthwith give to the boards, authorities and persons registered under subsection (7) notice of such discharge and such further particulars relating to it as may reasonably be required.

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- (9) [^{F259}Scottish Water]^{F252} shall take all necessary steps to secure that any water discharge by [^{F260}it] under the provisions of this section shall be as free as reasonably practicable from mud and silt, from solid, polluting offensive or injurious matter and from any matter prejudicial to fish or spawn or to spawning beds or food of fish.
- (10) A power conferred by this section shall not be exercised so as to damage or injuriously affect any works or other property of a railway company or navigation authority or so as to flood or damage any [^{F261}public road].
- (11) In the exercise of the powers conferred by this section [^{F262}Scottish Water]^{F252} shall do as little damage as possible and shall pay compensation to all persons for any damage sustained by them or liability to which they may become subject by reason of the exercise of those powers; and for the purposes of this subsection any extra expenditure which it becomes reasonably necessary for any public authority to incur for the purpose of properly discharging their statutory functions shall be deemed to be damage sustained by them.
- (12) Any question as to the amount of the compensation to be paid under subsection (11) shall in case of dispute be determined by arbitration.

Textual Amendments

- F232** Words in s. 33(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 26\(2\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F233** Word in s. 33(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 26\(2\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F234** Word in s. 33(1) inserted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 26\(2\)\(c\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F235** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\), s. 156\(1\), Sch. 9 para. 81\(8\)\(a\)](#)
- F236** Words in s. 33(1) repealed (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 26\(2\)\(d\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F237** Words in s. 33(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(22)(a), [Sch. 14; S.I. 1996/323, art. 4\(1\)\(c\)\(d\), Sch. 2](#)
- F238** Words in s. 33(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 26\(2\)\(e\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F239** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\), s. 156\(1\), Sch. 9 para. 81\(8\)\(b\)](#)
- F240** Words in s. 33(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 26\(3\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F241** Words in s. 33(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(22)(b), [Sch. 14; S.I. 1996/323, art. 4\(1\)\(c\)\(d\), Sch. 2](#)
- F242** Word in s. 33(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 26\(3\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F243** "(i)" inserted (1.10.1991) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1, 130\), s. 27\(1\), Sch. 10 para. 9\(3\)\(a\)](#)
- F244** S. 33(3)(a)(ii) and preceding word "and" (which were inserted (1.10.1991) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1, 130\), s. 27\(1\), Sch. 10 para. 9\(3\)\(b\)](#)) repealed (1.4.1996) by 1995 c. 25, s. 120, Sch. 22 para. 34(3)(a), [Sch. 24; S.I. 1996/186, art. 3](#)
- F245** S. 33(3)(a): sub-para. (ii) and preceding word "and" inserted at the end of para. (a) (1.4.1996) by 1995 c. 25, s. 120, [Sch. 22 para. 34\(3\)\(b\); S.I. 1996/186, art. 3](#)
- F246** Word in s. 33(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 26\(3\)\(c\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F247** Words in s. 33(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 26\(3\)\(c\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

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- F248** Words in s. 33(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(4)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F249** Word in s. 33(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F250** Words in s. 33(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F251** Words in s. 33(6)(b) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(5)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F252** Words in s. 33(6)(b)(7)(9)(11) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(22) (c), **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**
- F253** Words in s. 33(7) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(6)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F254** Words in s. 33(7) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(6)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F255** Word in s. 33(7) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(6)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F256** Words in s. 33(7) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(6)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F257** Words in s. 33(8) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(7)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F258** Word in s. 33(8) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(7)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F259** Words in s. 33(9) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(8)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F260** Word in s. 33(9) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(8)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F261** Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(8)(c)**
- F262** Words in s. 33(11) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(9)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

34 Persons supplying water to supply to authority.

Any person supplying water within the limits of supply of [^{F263}Scottish Water] shall furnish such supply to [^{F264}Scottish Water] as [^{F265}it] may require and as it is reasonably practicable for that person to provide, and that on such terms and conditions as may be agreed between him and [^{F266}Scottish Water] ; and, if they fail to agree, the amount of the supply and terms and conditions of the supply shall be determined by the Secretary of State or if he thinks fit, referred for determination to an arbiter appointed by him.

Textual Amendments

- F263** Words in s. 34 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 27(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F264** Words in s. 34 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 27(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F265** Word in s. 34 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 27(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F266** Words in s. 34 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 27(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

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35 Power to supply water fittings.

(1) [^{F267}Scottish Water] may, on the request of any person to whom [^{F268}it supplies or proposes] to supply water, supply to him ^{F269} any such water fittings as are required or allowed by [^{F270}its] byelaws and may, on such request, install, repair or alter (but not manufacture) any such water fittings, whether supplied by [^{F271}it] or not, and may provide any materials and do any work required in connection with installation, repair or alteration of water fittings.

[^{F272}Scottish Water] may make such charges as may be agreed, or in default of agreement as may be reasonable, for any fittings supplied, or any materials provided or work done under this subsection, and may recover such charges.

(2) If any fittings [^{F273}supplied otherwise than by sale] by [^{F274}Scottish Water] bear either a distinguishing plate affixed thereto, or a distinguishing brand or other mark conspicuously impressed or made thereon, sufficiently indicating [^{F274}Scottish Water] as the actual owners of the fittings, those fittings—

- (a) shall, notwithstanding that they fixed to some part of the premises in which they are situated or that they be laid in the soil thereunder, continue to be the property of, and removable by, [^{F275}Scottish Water] ; and
- (b) shall not be subject to [^{F276}any] diligence or to the landlord's hypothec for rent, or be liable to be taken under any process of law or in any proceedings in bankruptcy against the persons in whose possession they may be.

(3) Nothing in subsection (2) shall affect the valuation for rating of any lands and heritages.

^{F277}(4)

[^{F278}(5) If any person—

- (a) so interferes with a meter used by [^{F279}Scottish Water] in determining the amount of any charges fixed in relation to any premises as intentionally or recklessly to prevent the meter from showing, or from accurately showing, the volume of water supplied to those premises; or
- (b) carries out, without the consent of [^{F280}Scottish Water] , any works which he knows are likely to affect the operation of such a meter or which require the disconnection of such a meter; or
- (c) otherwise wilfully or negligently injures or suffers to be injured any water fitting belonging to [^{F279}Scottish Water] ,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.]

Textual Amendments

- F267** Words in s. 35(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 28\(a\)\(i\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F268** Words in s. 35(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 28\(a\)\(ii\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F269** Words in s. 35(1) ceased to have effect (1.4.1993) by virtue of [Local Government Finance Act 1992 \(c. 14\), s. 107, Sch. 11, Pt. IV, para. 30\(a\)](#) (with s. 118(1)(2)(4)); S.I. 1993/575, [art. 2\(b\)](#)
- F270** Word in s. 35(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 28\(a\)\(iii\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

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- F271** Word in s. 35(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 28\(a\)\(iv\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F272** Words in s. 35(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 28\(a\)\(v\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F273** Words in s. 35(2) substituted (1.4.1993) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 107, [Sch. 11, Pt. IV, para. 30 \(b\)](#) (with s. 118(1)(2)(4)); S.I. 1993/575, [art. 2\(b\)](#)
- F274** Words in s. 35(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 28\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F275** Words in s. 35(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 28\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F276** Word in s. 35(2)(b) substituted (30.12.2002) by [Debt Arrangement and Attachment \(Scotland\) Act 2002 \(asp 17\)](#), ss. 61, 64(2), [Sch. 3 Pt. 1 para. 12](#) (with s. 63)
- F277** S. 35(4) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), [Sch. 13 para. 119\(23\)](#), [Sch. 14](#); S.I. 1996/323, [art. 4\(1\)\(c\)\(d\)](#), [Sch. 2](#)
- F278** S. 35(5) substituted (1.4.1993) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 107, [Sch. 11, Pt. IV, para. 30\(c\)](#) (with s. 118(1)(2)(4)); S.I. 1993/575, [art. 2\(b\)](#)
- F279** Words in s. 35(5) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 28\(c\)\(i\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F280** Words in s. 35(5) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 28\(c\)\(ii\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

36 Power to execute work on behalf of owner or occupier.

[^{F281}Scottish Water] may by agreement with the owner or occupier of any premises execute at his expense any work in connection with the laying, maintenance, repair, alteration, renewal or removal of any water pipe, cock or meter which he is required or entitled to execute by or under this Act or any local enactment incorporating any provisions of Schedule 4, and for that purpose shall have all such rights as he has and may provide necessary materials.

Textual Amendments

- F281** Words in s. 36 substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 29](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

37 Power to require occupier to permit works to be executed by owner.

If on a complaint by the owner of any premises it appears to the sheriff that the occupier of those premises prevents the owner from executing any work which he is required to execute by or under this Act or any local enactment incorporating any provisions contained in Schedule 4 or by or under any byelaws made under this Act or under any such enactment, the sheriff may authorise the owner to enter for the purpose of executing the work.

38 Entry of premises.

- (1) Subject to the provisions of this section, an authorised officer of [^{F282}Scottish Water]^{F283} . . . shall, on producing if so required some duly authenticated document showing his authority, have a right to enter any premises at all reasonable hours—

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- [^{F284}(aa) where the conditions set out in subsection (2) of section 24B are satisfied in relation to the premises, for the purpose of carrying out any survey or tests to determine—
- (i) whether the carrying out of any works by virtue of paragraph (a) or (b) of subsection (4) of that section is practicable,
 - (ii) whether it is necessary or expedient for any purpose connected with the carrying out of any works by virtue of either of those paragraphs for any other works to be carried out, or
 - (iii) how any works specified in that subsection should be carried out;
- (ab) for the purpose of inspecting, examining or testing—
- (i) any meter which is on the premises and which is used by Scottish Water for measuring the quantity of water supplied, or
 - (ii) any pipes or apparatus installed in the course of any works which were carried out for any purpose which is connected with the installation, connection, testing, maintenance or repair of any such meter;
- (ac) for the purpose of ascertaining from any such meter the quantity of water supplied to the premises;]
- (b) for the purpose of ascertaining whether there is or has been on or in connection with the premises any contravention of the provisions of this Act or of any byelaws made thereunder;
 - (c) for the purpose of ascertaining whether or not circumstances exist which would authorise [^{F285}Scottish Water]^{F283} . . . to take any action or execute any work under this Act or any such byelaws;
 - (d) for the purpose of taking any action or executing any work authorised or required by this Act or any such byelaws to be taken or executed by [^{F285}Scottish Water]^{F283}
- (2) Admission to any premises, not being a factory within the meaning of the ^{M3}Factories Act 1961 or a place in which persons are employed otherwise than in domestic service, shall not be demanded as of right unless 24 hours' notice of the intended entry has been given to the occupier.
- (3) If it is shown to the satisfaction of the sheriff, or a justice having jurisdiction in the place, on a sworn information in writing—
- (a) that admission to any premises which any person is entitled to enter by virtue of such a right of entry has been refused to that person, or that refusal is apprehended, or that the premises are unoccupied, or the occupier is temporarily absent, or that the case is one of urgency, or that the application for admission would defeat the object of the entry; and
 - (b) that there is reasonable ground for entry into the premises for any purpose for which the right of entry is exercisable;
- the sheriff or justice may by warrant under his hand authorise that person to enter the premises if need be by force:
- Provided that such a warrant shall not be issued unless the sheriff or justice is satisfied either that notice of intention to apply for a warrant has been given to the occupier, or that the premises are unoccupied, or that the occupier is temporarily absent, or that the case is one of urgency, or that the giving of such notice would defeat the object of the entry.
- (4) Any person entitled to enter any premises by virtue of such a right of entry, or of a warrant issued under this section, may take with him such other persons as may be

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necessary, and on leaving any unoccupied premises which he has entered by virtue of such a warrant shall leave them as effectually secured against trespassers as he found them.

- (5) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.
- (6) If any person who, in compliance with any of the provisions of this Act or with a warrant issued thereunder, is admitted into any premises makes use of or discloses to any person any information obtained by him there with regard to any manufacturing process or trade secret, he shall, unless such use or disclosure was made in the performance of his duty, be liable in respect of each offence—
- (a) on summary conviction, to a fine not exceeding [^{F286}the statutory maximum] or to imprisonment for a term not exceeding three months or to both such fine and imprisonment;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.
- (7) Any person who wilfully obstructs any person upon whom a right of entry has been conferred by any of the provisions of this Act or by a warrant issued under this section shall in respect of each offence be liable on summary conviction to a fine not exceeding [^{F287}level 3 on the standard scale].
- (8) This section, except subsection (6), shall not apply to any right conferred by section 93.
- [^{F288}(9) This section does not apply in relation to the purposes mentioned in section 76M(1).]

Textual Amendments

- F282** Words in s. 38(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 30\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F283** Words in s. 38(1)(a)(c)(d) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(24), [Sch. 14](#); S.I. 1996/323, [art. 4\(1\)\(c\)\(d\), Sch. 2](#)
- F284** S. 38(1)(aa)-(ac) substituted for s. 38(1)(a) (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 30\(c\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F285** Words in s. 38(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 30\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F286** Words substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), Sch. 15 para. 23](#)
- F287** Words in s. 38(7) substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\), ss. 289G, 289H, Sch. 7D](#) (as inserted by [Criminal Justice Act 1982 \(c. 48\), s. 54, Sch. 6](#), which Sch. 6 was repealed (1.4.1996) by 1995 c. 40, ss. 6, 7(2), [Sch. 5](#)) and those same words substituted (1.4.1996) by 1995 c. 40, ss. 3, 7(2), Sch. 1 para. 10, [Sch. 2 Pt. III](#)
- F288** S. 38(9) inserted (10.6.2013 for specified purposes, 21.12.2013 in so far as not already in force) by [Water Resources \(Scotland\) Act 2013 \(asp 5\), ss. 30\(1\), 56\(1\)\(2\); S.S.I. 2013/163, art. 3, sch., S.S.I. 2013/342, at. 2\(b\)](#)

Modifications etc. (not altering text)

- C7** S. 38(1)–(7) applied with modifications by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\), s. 170B\(2\)](#) (as inserted by [Electricity Act 1989 \(c. 29, SIF 44:1\), s. 102, Sch. 13](#))

Marginal Citations

- M3** 1961 c. 34.

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PART IV

FINANCE

39 ^{F289}

Textual Amendments

F289 S. 39 repealed by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2, 103:2\)](#), s. 34, [Sch. 6](#)

^{F290}**40**

Textual Amendments

F290 S. 40 repealed (1.4.1996) by [1994 c. 39, s. 180\(1\)\(2\)](#), [Sch. 13 para. 119\(25\)](#), [Sch. 14](#); S.I. 1996/323, art. 4(1)(c)(d), [Sch. 2](#)

^{F291}**41**

Textual Amendments

F291 S. 41 repealed (1.4.1996) by [1994 c. 39, s. 180\(1\)\(2\)](#), [Sch. 13 para. 119\(25\)](#), [Sch. 14](#); S.I. 1996/323, art. 4(1)(c)(d), [Sch. 2](#)

^{F292}**41A Supply of water by meter.**

The occupier of premises to which water is supplied shall have the option, provided that he has (if he is not himself the owner of the premises) the consent of the owner, of taking the supply by meter; but the exercise of that option shall be conditional upon—

- (a) the payment by the occupier of any reasonable charges made by [^{F293}Scottish Water] under section 35 of this Act; and
- (b) the acceptance by him of such reasonable terms and conditions as may be published by [^{F294}Scottish Water] under section 55(1) of this Act,

and any question as to whether any such charges or terms and conditions are reasonable shall, in default of agreement, be referred to the Secretary of State who may determine it himself or, if he thinks fit, refer it to arbitration.]

Textual Amendments

F292 S. 41A substituted (1.4.1996) by [1994 c. 39, s. 112 \(with s. 74\(4\)\)](#); S.I. 1996/323, [art. 4\(1\)\(c\)](#)

F293 Words in s. 41A(a) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 31\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

F294 Words in s. 41A(b) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 31\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

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F295 **42**

Textual Amendments
F295 S. 42 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(26), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F296 **43**

Textual Amendments
F296 S. 43 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(26), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

44, 45. F297

Textual Amendments
F297 Ss. 44, 45 repealed by Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47, SIF 81:2, 103:2), s. 34, **Sch. 6**; and ss. 44, 45 expressed to be repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

F298 **46**

Textual Amendments
F298 S. 46 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(26), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

47 Domestic water rate in certain cases.

[^{F299}(1) Subject to section 41A of this Act, no charge shall be fixed, demanded or recovered for a supply of water to premises to which a water authority were, immediately before 16th May 1949, by virtue of any enactment or agreement, under an obligation to provide such a supply free of charge.]

(2) Where by virtue of any local enactment in force immediately before 16th May 1949 the domestic water rate was [^{F300}, for a period specified in that enactment, leviable in any area so specified] at an amount per pound determined by the local enactment (whether as an amount per pound [^{F300} so specified] or as an amount per pound being a proportion so specified of the amount per pound at which the domestic water rate would otherwise be payable, or otherwise), [^{F301}any charge payable in the area in question for a supply of water in any period commencing after 31st March 1996 (the “transfer date” for the purposes of Part II of the Local Government etc. (Scotland) Act 1994 and of this subsection) shall, during the period so specified, bear the same proportion to the

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charge which (but for this subsection) would be payable for that supply under a charges scheme, as the non-domestic water rate payable there as at the transfer date by virtue of the local enactment and of this subsection (as it had effect on the transfer date) bore to the non-domestic water rate which would otherwise have been payable.]

- (3) [^{F302}Where, by virtue of any enactment or agreement in force immediately before 16th May 1949, a water authority were under an obligation to provide a supply of water to any premises] on terms more favourable to the person having the vested interest in the obligation than those which, apart from the obligation, would have been applicable under the enactments in force immediately before that date relating to the supply of water by the authority in the limits of supply in which the premises are situated, ^{F303} the supply shall continue to be provided on the following, and no other, terms, that is to say—
- (a) where immediately before 16th May 1949 there was leviable under such an enactment a rate other than a public water rate, on such terms as may be agreed between the authority and the person having the vested interest in the obligation;
 - (b) in any other case on the terms on which immediately before that date it was provided under the enactment or agreement.
- (4) In determining for the purposes of the foregoing provisions of this section whether a supply of water provided under any enactment or agreement in force immediately before 16th May 1949 was provided free of charge or was such a supply as is mentioned in subsection (3), or in determining the sum which by virtue of that subsection is to be paid in respect of such a supply, no account shall be taken of any public water rate levied under any such enactment in respect of the premises so supplied or of any undertaking (other than an undertaking to pay a rate or a charge) entered into by the person having the vested interest in the obligation in consideration of which the supply was provided.
- (5) Any question arising under this section whether a water authority are required to provide a supply of water free of charge, or whether a supply is such a supply as is mentioned in subsection (3), or as to the terms on which a supply was provided immediately before 16th May 1949, or on which by virtue of this section a supply is to continue to be provided or otherwise, shall, in default of agreement, be referred to the Secretary of State, and the Secretary of State may determine it himself or, if he thinks fit, may refer it for determination by arbitration.
- (6) In this section the expression “public water rate” means in relation to any supply any rate called the public water rate in the local enactment by virtue of which the supply is provided on special terms.
- [^{F304}(7) Nothing in subsection (1) shall be construed as continuing any exemption, and nothing in subsection (3) as continuing any advantage, where under the enactment or agreement in question the obligation which gives rise to the exemption or advantage ceases to exist.]

Textual Amendments

F299 S. 47(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(27)(a)**; S.I. 1996/323, **art. 4(1)(c)**

F300 Words in s. 47(2) substituted (1.4.1996) by 1996 c. 39, s. 180(1), **Sch. 13 para. 119(27)(b)(i)(ii)**; S.I. 1996/323, **art. 4(1)(c)**

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- F301** Words in s. 47(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(27)(b)(iii)**; S.I. 1996/323, **art. 4(1)(c)**
- F302** Words in s. 47(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(27)(c)(i)**; S.I. 1996/323, **art. 4(1)(c)**
- F303** Word in s. 47(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(27)(c)(ii), **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**
- F304** S. 47(7) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(27)(d)**; S.I. 1996/323, **art. 4(1)(c)**

F305 48

Textual Amendments
F305 S. 48 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(28), **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**

F306 49

Textual Amendments
F306 S. 49 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(28), **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**

50 Power to require supply by meter.

- [^{F307}(1)] [^{F308}Scottish Water] shall not be bound to supply with water otherwise than by meter—
- (a) any premises whereof part is used as a dwelling house and part for any business, trade or manufacturing purpose for which water is required;
 - (b) any public institution, hospital, asylum ^{F309} . . . , sanatorium, school, club, hostel, camp, assembly hall, place of public entertainment, hotel or restaurant or any licensed premises for which a licence is required under the Licensing (Scotland) Act [^{F310}2005 (asp 16)];
 - [^{F311}(bb)] accommodation provided by a care home service (as defined by [^{F312}paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010] (asp 8);]
 - (c) any boarding-house capable of accommodating 12 or more persons, including the persons usually resident therein; ^{F313} . . .
 - (d) any premises which are used solely for business, trade or manufacturing purposes and in which a supply of water for domestic purposes only is required.[^{F314}; or
 - (e) any other premises specified, or of a description specified, in an order made by the Scottish Ministers.
- (2) Before making an order under subsection (1)(e) the Scottish Ministers shall consult such persons as they think fit.

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- (3) The power to make such an order shall be exercisable by statutory instrument; and a statutory instrument containing such an order shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.]

Textual Amendments

- F307** S. 50 renumbered as s. 50(1) (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 32(2)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F308** Words in s. 50(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 32(3)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F309** Words in s. 50(b) repealed (1.4.2002) by [2001 asp 8](#), s. 79, Sch. 3 para. 8(a); S.S.I. 2002/162, arts. 1(1), **2(f)(h)**
- F310** Words in s. 50(1)(b) substituted (1.9.2009 at 5.00 a.m.) by [Licensing \(Scotland\) Act 2005 \(asp 16\)](#), s. 150(2), **sch. 6 para. 4** (with s. 143); S.S.I. 2007/472, art. 3
- F311** S. 50(bb) inserted (1.4.2002) by [2001 asp 8](#), s. 79, Sch. 3 para. 8(b); S.S.I. 2002/162, arts. 1(1), **2(f)(h)**
- F312** Words in s. 50(1)(bb) substituted (1.4.2011) by [The Public Services Reform \(Scotland\) Act 2010 \(Consequential Modifications\) Order 2011 \(S.S.I. 2011/211\)](#), art. 1, **sch. 1 para. 4**
- F313** Word in s. 50(1) repealed (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 32(3)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F314** S. 50(1)(e)(2)(3) and preceding word inserted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 32(4)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

51 Power to require supplies for refrigerating apparatus, etc., to be taken by meter.

Where a person who takes a supply of water for domestic purposes from [^{F315}Scottish Water] otherwise than by meter desires to use any of the water so supplied—

- (a) for operating a water-cooled or refrigerating apparatus;
- (b) for operating any apparatus depending while in use upon a supply of continuously running water, not being an apparatus used solely for heating the water; or
- (c) for cleaning, regenerating or supplying motive power to an apparatus used for softening water,

[^{F316}Scottish Water] may require that all water so supplied shall be taken by meter.

Textual Amendments

- F315** Words in s. 51 substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 33(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F316** Words in s. 51 substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 33(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

52 Power to require supply for hose pipe to be taken by meter.

Where water which [^{F317}Scottish Water supplies] for domestic purposes is used by means of a hosepipe or similar apparatus for watering a garden or for horses, washing vehicles or other purposes in stables, garages or other premises where horses or vehicles are kept, [^{F318}Scottish Water] may require that all water so supplied shall be taken by meter.

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Textual Amendments

- F317** Words in s. 52 substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 34\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F318** Words in s. 52 substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 34\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

53 Provision as to supply to tents, vans, sheds, etc.

- (1) No person shall be entitled to demand or to continue to receive from [^{F319}Scottish Water] a supply of water to any habitation to which this subsection applies unless he has—
 - (a) agreed with [^{F320}Scottish Water] to take a supply of water by meter and to pay to [^{F321}it] such minimum annual sum as will give [^{F321}it] a reasonable return on the capital expenditure incurred by [^{F321}it] in providing the required supply and will cover other standing charges incurred by [^{F321}it] in order to meet the possible maximum demand for his habitation, and will yield a reasonable return on the cost of the water supplied; and
 - (b) secured to the reasonable satisfaction of [^{F322}Scottish Water] by way of deposit or otherwise, payment of such a sum as may be reasonable having regard to his possible maximum demand for water.

The annual sum to be so paid and the security to be so given shall be determined, in default of agreement, by the sheriff, whose decision shall be final.

- (2) The habitations to which subsection (1) applies are tents, vans or other conveyances, whether on wheels or not, and sheds or similar structures.
- (3) ^{F323}

Textual Amendments

- F319** Words in s. 53(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 35\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F320** Words in s. 53(a) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 35\(b\)\(i\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F321** Word in s. 53(1)(b) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 35\(b\)\(ii\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F322** Words in s. 53(1)(b) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 35\(c\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F323** S. 53(3) repealed by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2, 103:2\), s. 34, Sch. 6](#)

54 Register of meter to be evidence.

- (1) Where [^{F324}Scottish Water supplies] water by meter, the register of the meter shall be [^{F325}sufficient] evidence of the quantity of water supplied
- ^{F326}(2)
- (3) If the meter on being tested is proved to register incorrectly to any degree exceeding [^{F327}five per cent][^{F327}the relevant percentage]—

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- (a) the meter shall be deemed to have registered incorrectly to that degree since the last occasion but one before the date of the test on which a reading of the index of the meter was taken by [F328Scottish Water] , unless it is proved to have begun to register incorrectly on some later date; and
- (b) the amount of any refund to be made to, or of any extra payment to be made by, the consumer shall be paid or allowed by [F328Scottish Water] or paid by the consumer, as the case may be, F329.

[F330(4) In subsection (3), “the relevant percentage” means—

- (a) in the case of a high flow rate, 2.5%,
- (b) in the case of a low flow rate, 6%.]

[F330(5) The Scottish Ministers, by regulations—

- (a) must define “high flow rate” and “low flow rate” for the purpose of subsection (4),
- (b) may amend a percentage figure appearing in subsection (4).]

Textual Amendments

- F324** Words in s. 54(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 36\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F325** Word substituted by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2, 103:2\), s. 25, Sch. 5 Pt. IV para. 43](#)
- F326** S. 54(2) repealed (1.4.1996) by [1994 c. 39, s. 180\(1\)\(2\), Sch. 13 para. 119\(29\)\(a\), Sch. 14; S.I. 1996/323, art. 4\(1\)\(c\)\(d\), Sch. 2](#)
- F327** Words in s. 54(3) substituted (10.6.2013 for specified purposes) by [Water Resources \(Scotland\) Act 2013 \(asp 5\), ss. 29\(a\), 56\(1\)\(2\); S.S.I. 2013/163, art. 3, sch.](#)
- F328** Word in s. 54(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 36\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F329** Words in s. 54(3)(b) repealed (1.4.1996) by [1994 c. 39, s. 180\(1\)\(2\), Sch. 13 para. 119\(29\)\(b\), Sch. 14; S.I. 1996/323, art. 4\(1\)\(c\)\(d\), Sch. 2](#)
- F330** S. 54(4)(5) inserted (10.6.2013 for specified purposes) by [Water Resources \(Scotland\) Act 2013 \(asp 5\), ss. 29\(b\), 56\(1\)\(2\); S.S.I. 2013/163, art. 3, sch.](#)

55 Charges for water supplied by meter.

- (1) [F331Scottish Water] shall prepare and maintain a schedule of the terms and conditions [F332, other than as respects charges.] on which [F333it is] prepared in general to give a supply of water by meter or otherwise, and that schedule shall be published in such manner as in the opinion of [F334Scottish Water] will secure adequate publicity for it.
- (2) Nothing in the foregoing subsection shall be construed as prejudicing the rights or duties under section 9 of [F335Scottish Water] or of any person supplied or proposed to be supplied by [F336it] under that section.
- (3) F337
- (4) F337

Changes to legislation: Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 05 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

Textual Amendments

- F331** Words in s. 55(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 37\(2\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F332** Words in s. 55(1) inserted (1.4.1996) by 1994 c. 39, s. 180(1), [Sch. 13 para. 119\(30\)\(a\)](#); S.I. 1996/323, [art. 4\(1\)\(c\)](#)
- F333** Words in s. 55(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 37\(2\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F334** Words in s. 55(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 37\(2\)\(c\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F335** Words in s. 55(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 37\(3\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F336** Words in s. 55(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 37\(3\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F337** S. 55(3)(4) repealed (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 37\(4\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

56 Provisions as to supply of water to agricultural subjects.

- (1) Where a supply of water for purposes other than domestic purposes is provided for premises being agricultural lands and heritages, [^{F338}Scottish Water] shall require the supply to be taken either by meter or on other specified terms as [^{F339}it] may from time to time in [^{F340}its] discretion determine.
- (2) Where [^{F341}Scottish Water supplies] water by meter for purposes other than domestic purposes to any premises being agricultural lands and heritages and also [^{F342}supplies] water for domestic purposes to any dwelling house comprised in such premises, [^{F343}Scottish Water] shall, if it is reasonably practicable so to do, provide the whole supply of water to such premises and dwelling house through a single meter.

Textual Amendments

- F338** Words in s. 56(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 38\(a\)\(i\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F339** Word in s. 56(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 38\(a\)\(ii\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F340** Word in s. 56(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 38\(a\)\(iii\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F341** Words in s. 56(2) substituted (1.4.2002 subject to art. 3 of the commencing S.S.I.) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 38\(b\)\(i\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F342** Word in s. 56(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 38\(b\)\(ii\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F343** Words in s. 56(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 38\(b\)\(iii\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

[^{F344}56A Regulations as to meters.

The Secretary of State may make regulations under this Act as to the installation, connection, use, maintenance, authentication and testing of meters, and as to any related matters.]

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Textual Amendments

F344 S. 56A inserted (1.4.1993) by [Local Government Finance Act 1992 \(c. 14\), s. 107, Sch. 11, Pt. IV, para. 35](#) (with s. 118(1)(2)(4)); S.I. 1993/575, [art. 2\(b\)](#)

57 ^{F345}

Textual Amendments

F345 S. 57 repealed by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c.47, SIF 81:2, 103:2\), s. 34, Sch. 6](#)

58 Termination of right to supply of water on special terms.

- (1) Where by virtue of any enactment including any enactment in this Act) or of any agreement [^{F346}Scottish Water is] under an obligation to which this section applies, [^{F347}Scottish Water] and the person having the vested interest in the obligation may ^{F348} . . . enter into an agreement to terminate the obligation on such terms and conditions as to compensation or otherwise as they may agree; and any such agreement shall be enforceable against any person deriving title from the person who entered into the agreement.
- (2) The Secretary of State may, on the application of [^{F349}Scottish Water] and after affording to the person having the vested interest in the obligation an opportunity of making representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State, by order provide for the termination compulsorily of an obligation to which this section applies on payment of compensation, the amount of which shall, in default of agreement, be determined in manner provided by the Lands Clauses Acts with references to the taking of lands otherwise than by agreement, and the order may contain such incidental, consequential and supplementary provisions, including provisions for the amendment and repeal of any local enactment, as the Secretary of State thinks necessary or expedient.
- (3) The amount of the compensation to be paid under subsection (2) shall be assessed by reference to the value of the rights secured under the obligation as at the date of the making of the order, and in assessing that value regard shall be had to [^{F350}the amount of any charge][^{F351}for a supply of water] which may reasonably be expected to become payable as a result of the termination of the obligation.
- (4) This section applies to any obligation on the part of [^{F352}Scottish Water] providing to any person other than a [^{F353}local authority]. . . a supply of water (whether for domestic purposes or for purposes other than domestic purposes) to provide that supply free of charge or on terms more favourable to the person having the vested interest in the obligation than those which apart from the obligation would be applicable.
- (5) [^{F354}Scottish Water] shall [^{F355}—]
 - ^{F355}(a) register in the Land Register of Scotland any agreement entered into, or order made, under the foregoing provisions of this section terminating an obligation to which this section applies if the obligation was itself registered in the Land Register, or]

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[^{F355}(b) record in the Register of Sasines any such agreement or order if the obligation was itself recorded in the Register of Sasines.]

(6) ^{F356}

(7) An obligation to furnish a supply of water or to grant a wayleave for pipes or to give any other benefit or advantage to [^{F357}Scottish Water] entered into in consideration of an obligation to which this section applies shall not be deemed to be terminated by reason only of the termination under this section of the last mentioned obligation.

^{F358}(8)

Textual Amendments

- F346** Words in s. 58(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 39\(2\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F347** Words in s. 58(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 39\(2\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F348** Words repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\), Sch. 2 para. 40, Sch. 4](#)
- F349** Words in s. 58(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 39\(3\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F350** Words substituted by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2, 103:2\), s. 25, Sch. 5 Pt. IV para. 46](#)
- F351** Words in s. 58(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), [Sch. 13 para. 119\(31\)\(a\)](#); S.I. 1996/323, [art. 4\(1\)\(c\)](#)
- F352** Words in s. 58(4) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 39\(4\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F353** Words in s. 58(4) substituted (1.4.1996) by 1994 c. 39, s. 180(1), [Sch. 13 para. 119\(31\)\(b\)](#); S.I. 1996/323, [art. 4\(1\)\(c\)](#)
- F354** Words in s. 58(5) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 39\(5\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F355** Words in s. 58(5) substituted (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\), ss. 122, 123, sch. 5 para. 21\(2\)](#) (with s. 121, sch. 4 paras. 13, 16); S.S.I. 2014/127, [art. 2](#)
- F356** S. 58(6) repealed (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 39\(6\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F357** Words in s. 58(7) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 39\(7\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F358** S. 58(8) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), [Sch. 13 para. 119\(31\)\(d\)](#), [Sch. 14](#); S.I. 1996/323, [art. 4\(1\)\(c\)\(d\)](#), [Sch. 2](#)

59 Limitation of liability of water authority to supply water on special terms.

- (1) Notwithstanding anything in any such obligation as is mentioned in section 58(4) [^{F359}Scottish Water] shall not be liable under the obligation to provide to any premises in any year a quantity of water greater than the quantity supplied thereto in the year immediately preceding 27th October 1948, or to provide to any premises not provided by them with a supply of water on that day a supply otherwise than on the terms on which the supply would, apart from the obligation, have been provided under the ^{M4}Water (Scotland) Act 1946 and the ^{M5}Water (Scotland) Act 1949.
- (2) Any question arising under the foregoing subsection shall in case of dispute be determined by arbitration.

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Textual Amendments

F359 Words in s. 59 substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 40](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

Marginal Citations

M4 1946 c. 42.
M5 1949 c. 31.

^{F360}**60**

Textual Amendments

F360 S. 60 repealed (1.4.1996) by [1994 c. 39](#), s. 180(1)(2), [Sch. 13 para. 119\(32\)](#), [Sch. 14](#); S.I. 1996/323, [art. 4\(1\)\(c\)\(d\)](#), [Sch. 2](#)

^{F361}**61**

Textual Amendments

F361 S. 61 repealed (1.4.1996) by [1994 c. 39](#), s. 180(1)(2), [Sch. 13 para. 119\(32\)](#), [Sch. 14](#); S.I. 1996/323, [art. 4\(1\)\(c\)\(d\)](#), [Sch. 2](#)

62 ^{F362}

Textual Amendments

F362 S. 62 repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c.23, SIF 81:2\)](#), s. 41, [Sch. 4](#)

PART V

HOUSES, ETC., TO BE SUPPLIED WITH WATER

63 Provision of water supply for new buildings and houses.

(1) Subject to the provisions of this section, it shall be the duty of any person erecting or causing to be erected a building the erection of which is begun after 15th May 1946 to make adequate provision to the satisfaction of the local authority for a sufficient supply of wholesome water in pipes for the domestic purposes of the persons occupying or using the building.

[^{F363}(1A) In determining adequacy for the purposes of subsection (1), the local authority shall consult, and have regard to the views of, [^{F364}Scottish Water] .]

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(2) In the case of a building being a factory within the meaning of the ^{M6}Factories Act 1961, other than a factory in which the production or the preparation of food or drink for human consumption is carried on by way of trade, where the Secretary of State, after consulting [^{F365}Scottish Water] is satisfied—

- (a) that [^{F366}Scottish Water] would be unable to provide a sufficient supply of wholesome water in pipes for the purposes aforesaid without endangering [^{F367}its] ability to meet existing obligations to supply water for any purpose or probable future requirements to supply water for domestic purposes or without having to incur unreasonable expense, and
- (b) that it would not be reasonably practicable to obtain a sufficient supply as aforesaid from any other source,

it shall be a sufficient compliance with the requirements of this section if adequate provision is made to the satisfaction of the local authority for the installation of a sufficient supply of wholesome water in pipes for drinking, cooking and personal ablution and of a sufficient supply of suitable water in pipes for sanitary and other domestic purposes.

(3) Subject to, and without prejudice to the generality of, the provisions of this section, no person shall after 15th May 1946 erect or cause to be erected a house or shall use or permit to be used as a house any building the erection of which is begun after that date, unless there is provided within the house or building a sufficient supply of wholesome water for domestic purposes in pipes.

(4) For the purposes of this section a building or house shall be deemed to be erected where the building or house is re-erected after an outer wall of the building or house has been broken or pulled or burned down to within 10 feet of the surface of the ground adjoining the lowest storey.

(5) If any person contravenes any of the provisions of this section, [^{F368}except section (1A),] he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding [^{F369}level 3 on the standard scale] and in the case of a house or building being occupied as a house contrary to the provisions of subsection (3) he shall be liable to a further fine not exceeding £25 for each day on which the house or building is occupied as a house after conviction; and without prejudice to proceedings for the recovery of any such fine, the local authority may institute civil proceedings for the purpose of interdicting the occupation of any building in the case of which the provisions of subsection (1) are not complied with, or the occupation of a house as a house or the use of a building as a house in the case of which the provisions of subsection (3) are not complied with.

^{F370}(6)

Textual Amendments

F363 S. 63(1A) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(33)(a)**; S.I. 1996/323, **art. 4(1)(c)**

F364 Words in s. 63(1A) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 41(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F365 Words in s. 63(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 41(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F366 Words in s. 63(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 41(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

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- F367** Word in s. 63(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 41(b)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F368** Words in s. 63(5) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(33)(b)**; S.I. 1996/323, **art. 4(1)(c)**
- F369** Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F, 289G**
- F370** S. 63(6) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(33)(c), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

Marginal Citations

M6 1961 c. 34.

F371 **64**

Textual Amendments

F371 S. 64 repealed (4.1.1995) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(34), **Sch. 14**; S.I. 1994/2850, art. 3(d), **Sch. 3**

F372 **65**

Textual Amendments

F372 S. 65 repealed (4.1.1995) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(34), **Sch. 14** (with s. 179); S.I. 1994/2850, art. 3(d), **Sch. 3** (also amended (28.11.2004) by 2000 asp 5, ss. 71, 76(1)(2), 77, Sch. 12 para. 42(2)(a)-(c), Sch. 13 Pt. 1 (with ss. 58, 62, 75); S.S.I. 2003/456, **art. 2**)

F373 **66**

Textual Amendments

F373 s. 66 repealed (4.1.1995) by 1994 c. 39, s. 180(1), Sch. 13 para. 119(34), **Sch. 14** (with s. 179); S.I. 1994/2850, art. 3(d), **Sch. 3**

F374 **67**

Textual Amendments

F374 S. 67 repealed (4.1.1995) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(34), **Sch. 14** (with s. 179); S.I. 1994/2850, art. 3(d), **Sch. 3**

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PART VI

CONSERVATION AND PROTECTION OF WATER RESOURCES

68 Agreements as to drainage.

- (1) [^{F375}Scottish Water]^{F376} . . . may enter into agreements—
- (a) with the owners and occupiers of any land, in so far as their interest enables them to bind it, or
 - (b) with a [^{F377}local authority],

with respect to the execution and maintenance by any party to the agreement of such works as [^{F378}Scottish Water considers] necessary for the purpose of draining that land, or for more effectually [^{F379}collecting or conveying] water which [^{F380}it is] for the time being authorised to take:

Provided that where the execution of any such works would result in the discharge of water, otherwise than through public sewers, into any watercourse which is within a fishery district or is subject to the jurisdiction of a navigation authority or from which any public undertakers are authorised by any enactment to take or use water, [^{F381}Scottish Water]^{F376} . . . shall, before entering into the agreement, consult with the fishery district board or the navigation authority or the undertakers concerned.

- (2) An agreement under this section with an owner of land shall, if it is so expressed therein, on being [^{F382}registered in the Land Register of Scotland or recorded in the] Register of Sasines, be binding upon and enforceable against any person subsequently acquiring the land or any estate or interest therein.

^{F383}(3)

Textual Amendments

- F375** Words in s. 68(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 42(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F376** Words in s. 68(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(35)(a)(i), **Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2**
- F377** Words in s. 68(1)(b) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(35)(a)(ii); S.I. 1996/323, art. 4(1)(c)**
- F378** Words in s. 68(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 42(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F379** Words in s. 68(1) substituted (21.12.2013) by Water Resources (Scotland) Act 2013 (asp 5), **ss. 31(1), 56(1)(2); S.S.I. 2013/342, art. 2(b)**
- F380** Words in s. 68(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 42(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F381** Words in s. 68(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 42(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F382** Words in s. 68(2) substituted (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), **ss. 122, 123, sch. 5 para. 21(3)** (with s. 121, sch. 4 paras. 13, 16); S.S.I. 2014/127, **art. 2**
- F383** S. 68(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(35)(b), **Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2**

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[^{F384}**68A Agreements for water quality**

- (1) With respect to the matters mentioned in subsection (2), Scottish Water may enter into agreements with—
 - (a) the owners and occupiers of any land (in so far as their interest enables them to bind it), or
 - (b) a local authority.
- (2) The matters are—
 - (a) the carrying out by a party to the agreement of such activities as Scottish Water considers necessary for the purpose of protecting or improving the quality of any raw water,
 - (b) the refraining by a party to the agreement from such activities as Scottish Water considers detrimental to the purpose of protecting or improving the quality of any raw water.
- (3) In subsection (2), the references to protecting or improving the quality of water include—
 - (a) preventing any deterioration in the quality of the water,
 - (b) reducing or eliminating the amount of any treatment that the water requires in order to be wholesome.
- (4) Section 68(2) applies to an agreement under this section as it applies to an agreement to which that section relates (if the agreement under this section is with the owners of the land).
- (5) In this section, “raw water” has the same meaning as in section 76M.]

Textual Amendments

F384 S. 68A inserted (21.12.2013) by [Water Resources \(Scotland\) Act 2013 \(asp 5\)](#), **ss. 31(2)**, 56(1)(2); S.S.I. 2013/342, art. 2(b)

^{F385}**69 Power to restrict use of hose pipes.**

.....

Textual Amendments

F385 S. 69 repealed (10.6.2013) by [Water Resources \(Scotland\) Act 2013 \(asp 5\)](#), s. 56(1)(2), **sch. 4 para. 1(1)**; S.S.I. 2013/163, art. 3, sch.

70 Byelaws for preventing misuse of water.

- (1) [^{F386}Scottish Water]^{F387}... may make byelaws for preventing waste, undue consumption, misuse or contamination of water supplied by [^{F388}it], and such byelaws may, without prejudice to the foregoing generality, include provisions—
 - (a) prescribing the size, nature, design, materials, strength and workmanship, and the mode of arrangement, connection, disconnection, alteration and repair of the water fittings to be used; and

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- (b) forbidding the use of any water fittings which are of such a nature or design or are so arranged or connected as to cause or permit, or be likely to cause or permit, waste, undue consumption, misuse, erroneous measurement or contamination of water, or reverberation in pipes.
- (2) If a person contravenes the provisions of any byelaw made under this section, [^{F389}Scottish Water]^{F387} ... may, whether proceedings have been taken in respect of the offence or not, cause any water fittings belonging to or used by that person which are not in accordance with the requirements of the byelaws to be altered, repaired or replaced, and may recover the expenses reasonably incurred by [^{F390}it] in so doing from the person in default.
- (3) Nothing in this section, or in any byelaw made thereunder, shall apply to any fittings used on premises which belong to a railway company and are held or used by them for the purposes of their railway, so long as those fittings are not of such a nature or design or so arranged or connected as to cause or permit waste, undue consumption, misuse or contamination of water supplied by [^{F391}Scottish Water] or board or reverberation in pipes:

Provided that the exemption conferred by this subsection shall not extend to fittings used in hotels or dwelling houses or in offices not forming part of a railway station.

- [^{F392}(4) Where [^{F393}Scottish Water considers] that a byelaw made by [^{F394}it] under this section ought not to operate in relation to any particular case or class of cases [^{F395}it] may, with the consent of the Secretary of State, relax the requirements of, or dispense with compliance with, that byelaw accordingly:

Provided that [^{F396}Scottish Water]^{F387} ... shall, in such manner and to such person, if any, as the Secretary of State may direct, give notice of any such proposed relaxation or dispensation; and the Secretary of State—

- (a) shall not give his consent before the expiration of one month from the giving of the notice; and
- (b) shall, before giving his consent, take into consideration any relevant objection which may have been received by him.]

Textual Amendments

- F386** Words in s. 70(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 44\(2\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F387** Words in s. 70(1)(2)(4) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(37)(a)-(d), [Sch. 14](#); S.I. 1996/323, [art. 4\(1\)\(c\)\(d\)](#), [Sch. 2](#)
- F388** Word in s. 70(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 44\(2\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F389** Words in s. 70(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 44\(3\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F390** Word in s. 70(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 44\(3\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F391** Words in s. 70(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 44\(4\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F392** S. 70(4) added by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\), s. 33](#)
- F393** Words in s. 70(4) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 44\(5\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

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- F394** Word in s. 70(4) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 44\(5\)\(b\)](#) (with s. 67); [S.S.I. 2002/118, art. 2\(3\)](#)
- F395** Word in s. 70(4) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 44\(5\)\(c\)](#) (with s. 67); [S.S.I. 2002/118, art. 2\(3\)](#)
- F396** Words in s. 70(4) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 44\(5\)\(d\)](#) (with s. 67); [S.S.I. 2002/118, art. 2\(3\)](#)

Modifications etc. (not altering text)

- C8** S. 70 amended (27.8.1993) by [1993 c. 12, s. 40\(4\), Sch. 3 Pt. II para. 17](#) (with ss. 42, 46)
- C9** S. 70 restricted (1.9.2018) by [The Environmental Authorisations \(Scotland\) Regulations 2018 \(S.S.I. 2018/219\), reg. 1, sch. 8 para. 39\(2\)\(a\)\(vi\)](#) (with reg. 78, sch. 5 para. 2)

71 Byelaws for preventing pollution of water.

- (1) If it appears to [\[^{F397}Scottish Water\]^{F398}](#) ... to be necessary for the purpose of protecting against pollution any water whether on the surface or underground, which belongs to [\[^{F399}it\]](#) or which [\[^{F400}it is\]](#) for the time being authorised to take, [\[^{F401}it\]](#) may by byelaws—
- define the area within which [\[^{F402}it deems\]](#) it necessary to exercise control; and
 - prohibit or regulate the doing within that area of any act specified in the byelaws.

Byelaws made under this section may contain different provisions for different parts of the area defined by the byelaws.

- (2) Where an area has been defined by byelaws under this section, [\[^{F403}Scottish Water\]](#) may by notice require either the owner or the occupier of any premises within that area to execute and keep in good repair such works as [\[^{F404}it considers\]](#) necessary for preventing pollution of [\[^{F405}its\]](#) water, and, if he fails to comply with any such requirement, he shall be liable on summary conviction to the same penalties as if he had committed an act prohibited by the byelaws:

Provided that an owner or occupier who considers that a requirement made on him under this subsection is unreasonable may, within 28 days after service on him of the requirement, appeal to the sheriff who may, if he decides that the requirement is unreasonable, modify or disallow the requirement.

- (3) [\[^{F406}Scottish Water\]](#) shall pay compensation to the owners and occupiers of, and other persons interested in, any premises within the area defined by byelaws made under this section in respect of—
- any curtailment or injurious affection of their legal rights by restrictions imposed by the byelaws; and
 - any expenses incurred by them in complying with a requirement to construct and maintain any works the construction of which could not, apart from this section, lawfully have been required otherwise than upon payment of compensation by [\[^{F407}Scottish Water\]](#) ;

and any question as to the amount of compensation to be paid shall in case of dispute be determined by arbitration.

In this subsection the expression “legal rights” includes the use of land in respect of which proceedings might have been taken by [\[^{F408}Scottish Water\]](#) or otherwise under any public general Act or under byelaws made thereunder, but have not been so taken, either by reason of the character or situation of the land or for some other reason.

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- (4) Where any person has failed to comply with a requirement made on him under subsection (2) and either—
- (a) he has not appealed to the sheriff against that requirement and the time for appealing has expired, or
 - (b) his appeal has been dismissed or the requirement has been modified on his appeal and he has failed to comply with the requirement as so modified,
- [^{F409}Scottish Water] may, whether proceedings have been taken in respect of such failure or not, execute and keep in good repair the works specified in the requirement as originally made or, as the case may be, as modified on appeal, and may recover the expenses reasonably incurred by [^{F410}it] in so doing from the person in default, except expenses incurred in respect of works the construction of which could not, apart from this section, lawfully have been required otherwise than upon payment of compensation by [^{F409}Scottish Water].
- ^{F411}(5)
- (6) Nothing in this section shall be construed as empowering [^{F412}Scottish Water]^{F413} ... to make any byelaws restricting the rights of a navigation authority under any enactment.

Textual Amendments

- F397** Words in s. 71(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 45\(2\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F398** Words in s. 71(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(38)(a), [Sch. 14](#); S.I. 1996/323, [art. 4\(1\)\(c\)\(d\), Sch. 2](#)
- F399** Word in s. 71(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 45\(2\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F400** Words in s. 71(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 45\(2\)\(c\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F401** Word in s. 71(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 45\(2\)\(d\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F402** Words in s. 71(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 45\(2\)\(e\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F403** Words in s. 71(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 45\(3\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F404** Words in s. 71(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 45\(3\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F405** Word in s. 71(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 45\(3\)\(c\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F406** Words in s. 71(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 45\(4\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F407** Words in s. 71(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 45\(4\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F408** Words in s. 71(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 45\(4\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F409** Words in s. 71(4) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 45\(5\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F410** Word in s. 71(4) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 45\(5\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F411** S. 71(5) repealed (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 45\(6\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

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F412 Words in s. 71(6) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 45\(7\)](#) (with s. 67); [S.S.I. 2002/118, art. 2\(3\)](#)

F413 Words in s. 71(5)(6) repealed (1.4.1996) by [1994 c. 39, s. 180\(1\)\(2\), Sch. 13 para. 119\(38\)\(e\)\(ii\)\(f\), Sch. 14; S.I. 1996/323, art. 4\(1\)\(c\)\(d\), Sch. 2](#)

Modifications etc. (not altering text)

C10 S. 71 amended (27.8.1993) by [1993 c. 12, s. 40\(4\), Sch. 3 Pt. II para. 17](#) (with ss. 42, 46)

C11 S. 71 restricted (1.9.2018) by [The Environmental Authorisations \(Scotland\) Regulations 2018 \(S.S.I. 2018/219\), reg. 1, sch. 8 para. 39\(2\)\(a\)\(vi\)](#) (with reg. 78, sch. 5 para. 2)

72 General provisions as to byelaws.

- (1) The Secretary of State shall be the confirming authority as respects byelaws made under either of the last two foregoing sections, and the provisions of Part IV of Schedule 1 shall apply to the making and confirming of such byelaws.
 - (2) It shall be the duty of ^{F414}Scottish Water to enforce such] byelaws, so however that nothing in this subsection shall be construed as authorising ^{F415}Scottish Water] to institute proceedings for any offence against those byelaws.
 - (3) Any such byelaws may contain provisions for imposing on any person contravening the byelaws a fine, recoverable on summary conviction, not exceeding the sum of ^{F416}^{F417}[level 5] on the standard scale] in respect of each offence, and in the case of a continuing offence a further fine not exceeding £50 for each day during which the offence continues after conviction therefor.
- ^{F418}(3A) Subject to subsection (3B), proceedings for any offence against such byelaws may be commenced at any time—
- (a) within 6 months after the date on which evidence sufficient in the opinion of the procurator fiscal to justify the proceedings came to the procurator fiscal's knowledge, or
 - (b) where such evidence was reported to the procurator fiscal by Scottish Water, within 6 months after the date on which it came to Scottish Water's knowledge.
- (3B) No such proceedings shall be commenced more than 3 years after—
- (a) the date of the commission of the offence, or
 - (b) in the case of a continuing offence, the last date on which the offence was committed.
- (3C) Subsection (3) of section 136(time limit for certain offences) of the Criminal Procedure (Scotland) Act 1995 (c.46) applies for the purposes of this section as it applies for the purposes of that section.
- (3D) For the purposes of subsection (3A), a certificate signed by or on behalf of the procurator fiscal or, as the case may be, Scottish Water, and stating the date on which evidence such as is mentioned in that subsection came to the procurator fiscal's or, as the case may be, Scottish Water's knowledge shall be conclusive evidence of that fact.
- (3E) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.]
- (4) Any byelaw made under either of the last two foregoing sections shall cease to have effect on the expiration of the period of 10 years beginning with the date on which

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it was made; but the Secretary of State may by order extend the period during which any such byelaw is to remain in force.

Subordinate Legislation Made

- P1** S. 72: power previously exercised by [S.I. 1981/1801](#), 1988/327 and 1990/2250.
P2 S. 72(4): s. 72(4) power exercised (12.11.1991) by [S.I. 1991/2573](#)
 S. 72(4): s. 72(4) power exercised (20.11.1991) by [S.I. 1991/2639](#)

Textual Amendments

- F414** Words in s. 72(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 46\(a\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)
F415 Words in s. 72(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 46\(b\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)
F416 Words in s. 72(3) substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), s. 289G, 289H, [Sch. 7D](#) (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), s. 54, [Sch. 6](#), which Sch. 6 was repealed (1.4.1996) by [1995 c. 40](#), ss. 6, 7(2), [Sch. 5](#)) and those same words substituted (1.4.1996) by [1995 c. 40](#), ss. 3, 7(2), [Sch. 1 para. 10](#), [Sch. 2 Pt. III](#)
F417 Words in s. 72(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 65(2) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)
F418 S. 72(3A)-(3E) inserted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 65(3) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)

73 Power of Secretary of State to require the making of byelaws.

- (1) The Secretary of State may by notice require [^{F419}Scottish Water]^{F420} to make byelaws under section 70 or 71 in relation to such matters as he may specify, and, in the case of byelaws made under section 71, he shall specify the area for which the byelaws are to be made, and if [^{F421}Scottish Water does] not within three months after such requirement make in relation to the matters specified byelaws satisfactory to him, the Secretary of State may himself make byelaws with respect to those matters.
- (2) If, after they have been in operation for a period of not less than three years, the Secretary of State considers unsatisfactory any byelaws made by [^{F422}Scottish Water]^{F420} under section 70 or 71 or any byelaws or regulations made by [^{F422}Scottish Water]^{F420} under any other enactment conferring power to make byelaws or regulations for purposes similar to the purposes for which byelaws may be made under either of the said sections, he may by notice require [^{F423}Scottish Water]^{F420} to revoke those byelaws or regulations and to make such new byelaws under section 70 or 71 as he considers necessary; and if [^{F424}Scottish Water does] not within three months after such requirement comply therewith, the Secretary of State may himself revoke the byelaws or regulations and make such new byelaws under section 70 or 71 as he considers necessary.
- (3) Any byelaws made by the Secretary of State under this section shall have effect as if they had been made by [^{F425}Scottish Water] and confirmed by the Secretary of State.

Textual Amendments

- F419** Words in s. 73(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 47\(a\)\(i\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)

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- F420** Words in s. 73(1)-(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(40), **Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2**
- F421** Words in s. 73(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 47(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F422** Words in s. 73(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 47(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F423** Words in s. 73(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 47(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F424** Words in s. 73(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 47(b)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F425** Words in s. 73(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 47(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

74 Regulations to prevent waste, misuse or contamination of water.

- (1) The Secretary of State may make regulations for any of the purposes for which byelaws may be made under section 70 (byelaws for the prevention of waste, misuse or contamination of water); and any such regulations shall have effect in substitution for any such byelaws in force immediately before the coming into force of these regulations.
- (2) Any reference in this Act to a byelaw made under the said section 70 (other than a reference in section 72(1), (2) and (4) to byelaws) shall include a reference to a regulation made under this section.
- (3) Regulations made under this section may be made so as to apply in all parts of Scotland or to apply only in such part or parts as may be specified in the regulations, and may contain different provisions for different parts, or for different circumstances in any such part.

75 Penalty for polluting water.

- (1) If any person is guilty of any act or neglect whereby any spring, well or adit, the water from which is used or likely to be used for human consumption or domestic purposes or for manufacturing food or drink for human consumption, is polluted or likely to be polluted, he shall be guilty of an offence.
- (2) Nothing in this section shall be construed as prohibiting or restricting—
 - (a) any method of cultivation or use of land which is in accordance with the principles of good husbandry; or
 - (b) the reasonable use of oil or tar on any [^{F426}public road, so long as the roads] authority take all reasonable steps for preventing the oil or tar, or any liquid or matter resulting from the use thereof, from polluting any such spring, well or adit.
- (3) Any person guilty of an offence by virtue of this section shall be liable in respect of each offence—
 - (a) on summary conviction, to a fine not exceeding [^{F427}£40,000] and, in the case of a continuing offence, to a further fine not exceeding £50 for every day during which the offence is continued after conviction;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both a fine and such imprisonment.

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(4) ^{F428}

Textual Amendments

- F426** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 81(9)**
- F427** Words in s. 75(3)(a) substituted (28.10.2004) by [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#), s. 66, **Sch. 2 para. 3(a)**; S.S.I. 2004/420, arts. 2, 3, Sch. 1 (as amended by S.S.I. 2005/553 and 2006/104)
- F428** S. 75(4) repealed (28.10.2004) by [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#), s. 66, **Sch. 2 para. 3(b)**; S.S.I. 2004/420, arts. 2, 3, Sch. 1 (as amended by S.S.I. 2005/553 and 2006/104)

Modifications etc. (not altering text)

- C12** S. 75 amended (27.8.1993) by [1993 c. 12, s. 40\(4\)](#), **Sch. 3 Pt. II para. 17** (with ss. 42, 46)
- C13** S. 75 restricted (1.9.2018) by [The Environmental Authorisations \(Scotland\) Regulations 2018 \(S.S.I. 2018/219\)](#), reg. 1, **sch. 8 para. 39(2)(a)(vi)** (with reg. 78, sch. 5 para. 2)

76 Acquisition of land for protection of water.

- (1) For the purpose of any provision of this Act [^{F429} or of the [^{F430}Water Industry (Scotland) Act 2002 (asp 3)] ,] conferring power on [^{F431}Scottish Water]^{F432} to acquire land for the purposes of [^{F433}its] undertaking [^{F429} or functions], there shall be deemed to be included among those purposes the purpose of protecting against pollution any water, whether on the surface or underground, which belongs to [^{F434}Scottish Water]^{F432} or which [^{F435}it is] for the time being authorised to take.
- (2) [^{F436}Scottish Water]^{F437} may on any land belonging to [^{F438}it], or over or in which [^{F439}it has] acquired the necessary servitudes or rights, construct or maintain drains, sewers, watercourses, catchpits and other works for intercepting, treating or disposing of any foul water arising or flowing upon that land, or for otherwise preventing water which belongs to [^{F440}Scottish Water]^{F437} or which [^{F441}it is] for the time being authorised to take from being polluted:
- Provided that—
- (a) before constructing any such works [^{F440}Scottish Water]^{F437} shall, if the proposed works will affect any watercourses in a fishery district or which is subject to the jurisdiction of a navigation authority, consult with the fishery district board or the navigation authority concerned;
- (b) nothing in this subsection shall authorise [^{F442}Scottish Water]^{F437} to intercept or take any water which a navigation authority or any public undertakers are authorised by any enactment to take or use for the purposes of their undertaking without the consent of that navigation authority or those public undertakers.
- (3) [^{F443}Where Scottish Water proposes] to construct any drain, sewer or water-course for the purposes mentioned in subsection (2) [^{F444}it] may, with the consent of the [^{F445}roads] authority concerned, which may be given subject to such conditions as the [^{F445}roads] authority think fit, carry the drain, sewer or water-course under, across or along any [^{F446}road]. . . ^{F447}, and such statutory provisions with respect to the breaking open of [^{F446}roads] as are applicable to [^{F448}Scottish Water]^{F447} shall, with any necessary modifications and adaptations, apply accordingly:

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Provided that the consent of the [^{F445}roads] authority shall not be required by virtue of this subsection for the carrying by [^{F449}Scottish Water]^{F450} of any drain, sewer or water-course under any [^{F451}public road] which is within the limits of supply of [^{F452}Scottish Water]^{F450}.

- (4) A consent required for the purposes of subsection (2) or (3) shall not be unreasonably withheld nor shall any unreasonable conditions be attached to such a consent, and any question whether or not such a consent is unreasonably withheld or whether any condition which it is sought to impose is unreasonable shall in case of dispute be determined by arbitration.

Textual Amendments

- F429** Words in s. 76(1) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(41)(a)(i)(iii)**; S.I. 1996/323, **art. 4(1)(c)**
- F430** Words in s. 76(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F431** Words in s. 76(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(2)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F432** Words in s. 76(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(41)(a)(ii), **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**
- F433** Word in s. 76(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(2)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F434** Words in s. 76(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(2)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F435** Words in s. 76(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(2)(e)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F436** Words in s. 76(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(3)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F437** Words in s. 76(2) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(41)(b), Sch. 14; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**
- F438** Word in s. 76(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(3)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F439** Words in s. 76(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(3)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F440** Words in s. 76(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(3)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F441** Words in s. 76(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(3)(e)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F442** Words in s. 76(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(3)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F443** Words in s. 76(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(4)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F444** Word in s. 76(3) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F445** Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(10)(a)**
- F446** Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(10)(b)**
- F447** Words in s. 76(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(41)(c), Sch. 14; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**
- F448** Words in s. 76(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(4)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

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- F449** Words in s. 76(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(4)(e)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F450** Words in the proviso to s. 76(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(41)(d), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F451** Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(10)(c)**
- F452** Words in s. 76(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(4)(f)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

^{F453} PART VIA

QUALITY OF WATER

Textual Amendments

- F453** Pt. VIA (ss. 76A–76L) inserted by Water Act 1989 (c. 15, SIF 130), s. 168, **Sch. 22** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)

76A Duties of water authorities with respect to water quality.

- (1) It shall be the duty of [^{F454}Scottish Water]—
- (a) when supplying water to any premises for [^{F455}domestic or food production purposes] to supply only water which is wholesome at the time of supply; and
 - (b) so far as reasonably practicable, to ensure, in relation to each source or combination of sources from which [^{F456}Scottish Water] supplies water to premises for [^{F455}domestic or food production purposes], that there is, in general, no deterioration in the quality of the water which is supplied from time to time from that source or combination of sources.
- (2) For the purposes of this section and section 76B below and subject to subsection (3) below, water supplied by [^{F457}Scottish Water] to any premises shall not be regarded as unwholesome at the time of supply where it has ceased to be wholesome only after leaving [^{F458}Scottish Water’s] pipes.
- (3) For the purposes of this section where water supplied by [^{F459}Scottish Water] to any premises would not otherwise be regarded as unwholesome at the time of supply, that water shall be regarded as unwholesome at that time if—
- (a) it has ceased to be wholesome after leaving [^{F460}Scottish Water’s] pipes but while in a pipe which is subject to water pressure from a main or which would be so subject but for the closing of some valve; and
 - (b) it has so ceased in consequence of the failure of [^{F461}Scottish Water] , before supplying the water, to take such steps as may be prescribed for the purpose of securing the elimination or reduction to a minimum of any prescribed risk that the water would cease to be wholesome after leaving [^{F460}Scottish Water’s] pipes.
- (4) The provisions of this section shall apply in relation to water which is supplied by [^{F462}Scottish Water] whether or not the water is water which [^{F463}Scottish Water] is required to supply by virtue of any provision of this Act.

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Subordinate Legislation Made

- P3** S. 76A: s. 76B (with ss. 76A, 76J, 101(1) and 109(1)) power exercised by [S.I.1991/1333](#)
S. 76A power previously exercised by [S.I. 1990/119](#)

Textual Amendments

- F454** Words in s. 76A(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 49\(2\)\(a\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)
- F455** Words substituted by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\)](#), [s. 56\(2\)](#)
- F456** Words in s. 76A(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 49\(2\)\(b\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)
- F457** Words in s. 76A(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 49\(3\)\(a\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)
- F458** Words in s. 76A(2) substituted (1.4.2002) subject to art. 3 of the commencing S.S.I.) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 49\(3\)\(b\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)
- F459** Words in s. 76A(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 49\(4\)\(a\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)
- F460** Words in s. 76A(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 49\(4\)\(b\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)
- F461** Words in s. 76A(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 49\(4\)\(c\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)
- F462** Words in s. 76A(4) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 49\(5\)\(a\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)
- F463** Words in s. 76A(4) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 49\(5\)\(b\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)

76B Regulations for preserving water quality.

- (1) The Secretary of State may by regulations require [^{F464}Scottish Water] to take all such steps as may be prescribed for the purpose of securing compliance with section 76A above; and, without prejudice to the generality of that power, regulations under this subsection may impose an obligation on [^{F464}Scottish Water]—
- to take all such steps as may be prescribed for monitoring and recording whether the water which [^{F465}Scottish Water] supplies to premises for [^{F466}domestic or food production purposes] is wholesome at the time of supply;
 - to take all such steps as may be prescribed for monitoring and recording the quality of the water from any source, or combination of sources, which [^{F465}Scottish Water] uses or is proposing to use for supplying water to any premises for [^{F466}domestic or food production purposes];
 - to ensure that a source which [^{F465}Scottish Water] is using or proposing to use for supplying water for [^{F466}domestic or food production purposes] is not so used until prescribed requirements for establishing the quality of water which may be supplied from that source have been complied with;
 - to keep records of the localities within which all the premises supplied with water for [^{F466}domestic or food production purposes] by [^{F465}Scottish Water] are normally supplied from the same source or combination of sources;
 - to comply with prescribed requirements with respect to the analysis of water samples or with respect to internal reporting or organisational arrangements.
- (2) Without prejudice to subsection (1) above, the Secretary of State may by regulations make provision with respect to the use by [^{F467}Scottish Water] , for the purposes of

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or in connection with the carrying out of ^[F468]its] functions, of such processes and substances, and of products that contain or are made with such substances or materials, as he considers might affect the quality of any water; and, without prejudice to the generality of that power, regulations under this subsection may—

- (a) forbid the use by ^[F467]Scottish Water] of processes, substances and products which have not been approved under the regulations or which contravene the regulations;
 - (b) for the purposes of provision made by virtue of paragraph (a) above, require processes, substances and products used by ^[F467]Scottish Water] to conform to such standards as may be prescribed by or approved under the regulations;
 - (c) impose such other requirements as may be prescribed with respect to the use by ^[F467]Scottish Water] of prescribed processes, substances and products;
 - (d) provide for the giving, refusal and revocation, by prescribed persons, of approvals required for the purposes of the regulations, for such approvals to be capable of being made subject to such conditions as may be prescribed and for the modification and revocation of any such condition;
 - (e) impose obligations to furnish prescribed persons with information reasonably required by those persons for the purpose of carrying out functions under the regulations;
 - (f) provide for a contravention of the regulations to constitute—
 - (i) an offence punishable on summary conviction by a fine not exceeding level 5 on the standard scale or such smaller sum as may be prescribed; or
 - (ii) an offence triable either summarily or on indictment and punishable, on summary conviction, by a fine not exceeding the statutory maximum and, on conviction on indictment, by a fine; and
 - (g) require prescribed charges to be paid to persons carrying out functions under the regulations.
- (3) The Secretary of State may by regulations require ^[F469]Scottish Water]—
- (a) to publish information about the quality of water supplied for ^[F466]domestic or food production purposes] to any premises by ^[F470]Scottish Water] ; and
 - (b) to provide information to prescribed persons about the quality of water so supplied.
- (4) Regulations under subsection (3) above—
- (a) shall prescribe both the information which is to be published or provided in pursuance of the regulations and the manner and circumstances in which it is to be published or provided;
 - (b) may require the provision of information by ^[F471]Scottish Water] to any person to be free of charge or may authorise it to be subject to the payment by that person to ^[F472]Scottish Water] of a prescribed charge; and
 - (c) may impose such other conditions on the provision of information by ^[F471]Scottish Water] to any person as may be prescribed.

Subordinate Legislation Made

- P4** S. 76B: s. 76B (with ss. 76A, 76J, 101(1) and 109(1)) power exercised by [S.I.1991/1333](#)
 S. 76B power previously exercised by [S.I. 1990/119](#)

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Textual Amendments

- F464** Words in s. 76B(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 50\(2\)\(a\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)
- F465** Words in s. 76B(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 50\(2\)\(b\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)
- F466** Words substituted by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\)](#), s. **56(2)**
- F467** Words in s. 76B(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 50\(3\)\(a\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)
- F468** Word in s. 76B(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 50\(3\)\(b\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)
- F469** Words in s. 76B(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 50\(4\)\(a\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)
- F470** Words in s. 76B(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 50\(4\)\(b\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)
- F471** Words in s. 76B(4) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 50\(5\)\(a\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)
- F472** Words in s. 76B(4) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 50\(5\)\(b\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)

76C Offence of supplying water unfit for human consumption.

- (1) Subject to subsection (4) below, where [^{F473}Scottish Water] supplies water by means of pipes to any premises and that water is unfit for human consumption [^{F474}Scottish Water] shall be guilty of an offence and liable—
- on summary conviction to a fine not exceeding the statutory maximum;
 - on conviction on indictment, to a fine.
- (2) Where an offence under this section is proved to be attributable to any neglect on the part of an employee of [^{F475}Scottish Water], he as well as [^{F475}Scottish Water] shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (3) For the purposes of subsection (2) above, the penalty on conviction on indictment shall include imprisonment (in addition to or instead of a fine) for a term not exceeding two years.
- (4) In any proceedings for an offence under this section it shall be a defence to show that—
- there were no reasonable grounds for suspecting that the water would be used for human consumption; or
 - all reasonable steps had been taken and all due diligence exercised for securing that the water was fit for human consumption on leaving the pipes or was not used for human consumption.

Textual Amendments

- F473** Words in s. 76C(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 51\(a\)\(i\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)
- F474** Words in s. 76C(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 51\(a\)\(ii\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)
- F475** Words in s. 76C(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 51\(b\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)

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76D Provision of water where piped supplies insufficient or unwholesome.

(1) Where—

- (a) it is not practicable at reasonable cost for [^{F476}Scottish Water], by supplying water in pipes, to provide or maintain such a supply of wholesome water to any particular premises in its limits of supply as (so far as those premises are concerned) is sufficient for domestic purposes;
- (b) it is practicable at reasonable cost for [^{F477}Scottish Water] to provide such a supply to those premises otherwise than in pipes;
- (c) the insufficiency or unwholesomeness of the supply of water for domestic purposes to those premises is such as to cause a danger to life or health; and
- (d) the local authority in whose area those premises are situated notify [^{F478}Scottish Water] of that danger and require [^{F478}Scottish Water] to provide a supply otherwise than in pipes, it shall be the duty of [^{F478}Scottish Water], for such period as may be required by that local authority, to provide any supply to those premises which it is practicable at reasonable cost to provide otherwise than in pipes and which it is required to provide by that local authority.

(2) Where under subsection (1) above a local authority require the provision by [^{F479}Scottish Water] of a supply of water to any premises, that local authority—

- (a) shall be liable to [^{F480}Scottish Water] for any charges payable in respect of the provision of that supply; but
- (b) shall have power to recover the whole or any part of any charges paid by virtue of this subsection from the owner or occupier of the premises to which the supply is provided.

(3) In this section references to the provision of a supply of water to any premises otherwise than in pipes shall have effect, in a case in which it is practicable at reasonable cost to provide a supply (whether or not in pipes) to a place within a reasonable distance of those premises, as including references to the provision of a supply to that place.

Textual Amendments

F476 Words in s. 76D(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 52\(a\)\(i\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

F477 Words in s. 76D(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 52\(a\)\(ii\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

F478 Words in s. 76D(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 52\(a\)\(iii\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

F479 Words in s. 76D(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 52\(b\)\(i\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

F480 Words in s. 76D(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 52\(b\)\(ii\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

76E Enforcement of sections 76A to 76D.

- (1) This section applies to enforcement of the duties of [^{F481}Scottish Water] under sections 76A and 76D(1) and under regulations made under section 76B.
- (2) Without prejudice to its generality, section 11 above (power of Secretary of State to make a default order) shall have effect, subject to the following provisions of this

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section, for the enforcement by the Secretary of State of the duties referred to in subsection (1) above.

[^{F482}(2A) The reference in subsection (2) of section 11 to “such a failure on the part of Scottish Water” is to be construed as a reference to a failure by Scottish Water in any of the duties referred to in subsection (1) above.]

(3) The Secretary of State may make an order under subsection (2) of section 11 without having caused a local inquiry to be held into the matter.

[^{F483}(3A) Before making an order under subsection (2) of section 11, the Scottish Ministers must consult the Drinking Water Quality Regulator for Scotland.]

^{F484}(4)

Textual Amendments

F481 Words in s. 76E(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 53\(a\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)

F482 [S. 76E\(2A\)](#) inserted (1.1.2015) by [The Public Water Supplies \(Scotland\) Regulations 2014 \(S.S.I. 2014/364\)](#), [regs. 1\(1\)](#), [48\(a\)\(i\)](#) (with [reg. 1\(3\)\(4\)](#))

F483 [S. 76E\(3A\)](#) inserted (1.1.2015) by [The Public Water Supplies \(Scotland\) Regulations 2014 \(S.S.I. 2014/364\)](#), [regs. 1\(1\)](#), [48\(a\)\(ii\)](#) (with [reg. 1\(3\)\(4\)](#))

F484 [S. 76E\(4\)](#) repealed (1.1.2015) by [The Public Water Supplies \(Scotland\) Regulations 2014 \(S.S.I. 2014/364\)](#), [regs. 1\(1\)](#), [48\(a\)\(iii\)](#) (with [reg. 1\(3\)\(4\)](#))

76F General functions of local authorities in relation to water quality.

(1) It shall be the duty of every local authority to take all such steps as they consider appropriate for keeping themselves informed about the wholesomeness and sufficiency of water supplies provided to premises in their area, including every private supply to any such premises.

(2) It shall be the duty of a local authority to notify [^{F485}Scottish Water and the Drinking Water Quality Regulator for Scotland] of anything appearing to the local authority to suggest—

(a) that any supply by [^{F486}Scottish Water] of water for [^{F487}domestic or food production purposes] to any premises in the area of that local authority is, has been, or is likely to become unwholesome or (so far as any such premises are concerned) insufficient for [^{F488}domestic purposes];

(b) that the unwholesomeness or insufficiency of any such supply is, was or is likely to be such as to cause a danger to life or health; or

(c) that the duty imposed on [^{F486}Scottish Water] by virtue of section 76A(1)(b) above is being, has been or is likely to be so contravened as to affect any supply of water to premises in that area;

and it shall be the duty of a local authority to require the provision of a supply in pursuance of section 76D above whenever, in a case falling within paragraph (a) of subsection (1) of that section, they are satisfied, in relation to any premises in their area, as to the matters specified in paragraphs (b) and (c) of that subsection.

(3) Where a local authority have notified [^{F489}Scottish Water] of any such matter as is mentioned in subsection (2) above, it shall be the duty of that local authority, if they are not satisfied that all such remedial action as is appropriate will be taken by [^{F490}Scottish

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Water, to notify the Drinking Water Quality Regulator for Scotland of that fact and] ,
to inform the Secretary of State about the contents of the notification.

- (4) It shall be the duty of a local authority to comply with any direction given by the Secretary of State to that local authority or to local authorities generally as to—
- (a) the cases and circumstances in which they are or are not to exercise any of the powers conferred on them by this Part in relation to private supplies; and
 - (b) the manner in which those powers are to be exercised.
- (5) [^{F491}Without prejudice to subsection (7) below,] the Secretary of State may by regulations make such provision, supplementing the [^{F491}foregoing] provisions of this section, as he considers appropriate for—
- (a) imposing duties and conferring powers on local authorities with respect to the acquisition of information about the quality and sufficiency of water supplies provided to premises in their areas; and
 - (b) regulating the performance of any duty imposed by or under this section.
- (6) Without prejudice to the generality of subsection (5) above, regulations under that subsection may—
- (a) prescribe the matters to be taken into account by a local authority in determining, for the purposes of subsection (1) above, what is appropriate;
 - (b) provide, for the purposes of the exercise or performance of any power or duty conferred or imposed on a local authority by or under this section, for such samples of water to be taken and analysed at such times and in such manner as may be prescribed;
 - (c) authorise local authorities to exercise or perform any such power or duty through prescribed persons;
 - (d) provide for the recovery by a local authority, from prescribed persons, of such amounts as may be prescribed in respect of expenses reasonably incurred by the authority in the exercise of any such power or the performance of any such duty.
- [^{F492}(7) The Secretary of State may by regulations require a local authority—
- (a) to publish information about the quality of private supplies of water for domestic or food production purposes to any premises in their area; and
 - (b) to provide information to prescribed persons about the quality of water so supplied.
- (8) Regulations under subsection (7) above—
- (a) shall prescribe both the information which is to be published or provided in pursuance of the regulations and the manner and circumstances in which it is to be published or provided;
 - (b) may require the provision of information by a local authority to any person to be free of charge or may authorise it to be subject to the payment by that person to the authority of a prescribed charge; and
 - (c) may impose such other conditions on the provision of information by a local authority to any person as may be prescribed.]

Textual Amendments

F485 Words in s. 76F(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 54\(a\)\(i\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

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- F486** Words in s. 76F(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 54(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F487** Words substituted by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\)](#), s. 56(3)
- F488** Words substituted by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\)](#), s. 56(3)
- F489** Words in s. 76F(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 54(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F490** Words in s. 76F(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 54(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F491** Words in s. 76F(5) inserted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(42)**; S.I. 1994/2850, **art. 3(c)**
- F492** S. 76F(7)(8) added (4.1.1995) by 1994 c. 39, s. 114 (with s. 74(4)); S.I. 1994/2850, art. 3(a), **Sch. 2**

^{F494}**76FA**^{F493}**Domestic distribution failures where water is supplied to the public by private supply]**

.....

Textual Amendments

- F493** S. 76FA title substituted (1.1.2015) by [The Public Water Supplies \(Scotland\) Regulations 2014 \(S.S.I. 2014/364\)](#), regs. 1(1), **48(c)** (with reg. 1(3)(4))
- F494** S. 76FA omitted (27.10.2017) by virtue of [The Water Intended for Human Consumption \(Private Supplies\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/282\)](#), reg. 1(1), **sch. 10 para. 1(2)** (with reg. 2)

[^{F495}**76FB****Remedial powers of local authorities where domestic distribution failure affects supply to public**

(1) This section applies where a local authority

^{F496}[.....
^{F497}(a)]

[^{F498}(b) receive a report on the findings of an investigation in accordance with regulation 19(1)(c) of the [Public Water Supplies \(Scotland\) Regulations 2014 \(SSI 2014/364\)](#).]

(2) A local authority must serve a notice on the person who owns or is otherwise responsible for the domestic distribution system of the premises affected by ^{F499}... [^{F500}the failure or apprehended failure which is the subject of the investigation,] (the “responsible person”) for the purposes of ensuring a wholesome supply and protecting human health.

(3) A notice served under this section must—

- (a) give particulars of ^{F501}... [^{F502}the failure or apprehended failure] in respect of which the notice is served;
- (b) specify any steps which the local authority require to be taken for the purposes of ensuring a wholesome supply and protecting human health;
- (c) specify a period for the performance of each step;
- (d) specify the advice (if any) which the local authority require the responsible person to communicate to consumers of the supply;
- (e) specify any steps which the local authority require to be taken for the purpose of communicating such advice;

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- (f) specify a period ending not less than 28 days after the day on which the notice is served within which any representations or objections with respect to the notice must be received by the local authority; and
- (g) state the effect in relation to that notice of section 76FC below.
- (4) Where the local authority consider that ^{F503}... [^{F504}a relevant failure] (including ^{F503}... [^{F504}a relevant failure] relating to an indicator parameter) constitutes a potential risk to human health, the local authority must—
- (a) require the taking of such steps under subsection (3)(b) above as the authority consider necessary to protect human health; and
- (b) require advice to be given to consumers under subsection (3)(d).
- (5) In requiring the taking of such steps as may be necessary to comply with subsection (4) (a) above, the local authority and the Scottish Ministers must take into account the risks to human health which would be caused by an interruption of the supply or a restriction in the use of water intended for human consumption (within the meaning of Article 2.1 of Council Directive 98/83/EC on the quality of water intended for human consumption).
- (6) The provisions of section 76G(3) below shall have effect in relation to notices served under this section and the reference to a “relevant person” in that subsection shall be construed as a reference to a “responsible person” for the purposes of this section.
- (7) Once the period specified for performance of a step required by a notice under this section has expired, a local authority must notify the Scottish Ministers as soon as possible of any actions taken by the responsible person and the local authority pursuant to, or in consequence of, the requirement to take the step.
- (8) Unless a local authority consider ^{F505}... [^{F506}a relevant failure] to be of a trivial nature, the authority must take such steps as the authority consider necessary to ensure that consumers are notified of any remedial action taken under, or pursuant to, a notice served under this section.
- (9) In this section “indicator parameter” means a parameter listed in—
- [^{F507}(a) Part 2 of Table B in Schedule 1 to the Public Water Supplies (Scotland) Regulations 2014 (SSI 2014/364);][^{F508}or]
- [^{F507}(b) Table C in Schedule 1 to those Regulations [^{F509}.]]
- ^{F510}(c)
- ^{F510}(d)
- [In subsections (4) and (8) “a relevant failure” means a failure or apprehended failure ^{F511}(10) which is the subject of an investigation to which subsection (1)(b) applies.]]

Textual Amendments

F495 Ss. 76FA-76FC inserted (20.4.2010) by The Water Quality (Scotland) Regulations 2010 (S.S.I. 2010/95), regs. 1(1), 2

F496 S. 76FB(1)(a) omitted (27.10.2017) by virtue of The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(3)(a)** (with reg. 2)

F497 Words in s. 76FB(1) renumbered as s. 76FB(1)(a) (1.1.2015) by The Public Water Supplies (Scotland) Regulations 2014 (S.S.I. 2014/364), regs. 1(1), **48(d)(i)** (with reg. 1(3)(4))

F498 S. 76FB(1)(b) and word inserted (1.1.2015) by The Public Water Supplies (Scotland) Regulations 2014 (S.S.I. 2014/364), regs. 1(1), **48(d)(ii)** (with reg. 1(3)(4))

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- F499** Words in s. 76FB(2) omitted (27.10.2017) by virtue of The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(3)(b)** (with reg. 2)
- F500** Words in s. 76FB(2) inserted (1.1.2015) by The Public Water Supplies (Scotland) Regulations 2014 (S.S.I. 2014/364), regs. 1(1), **48(e)** (with reg. 1(3)(4))
- F501** Words in s. 76FB(3)(a) omitted (27.10.2017) by virtue of The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(3)(c)** (with reg. 2)
- F502** Words in s. 76FB(3)(a) inserted (1.1.2015) by The Public Water Supplies (Scotland) Regulations 2014 (S.S.I. 2014/364), regs. 1(1), **48(f)** (with reg. 1(3)(4))
- F503** Words in s. 76FB(4) omitted (27.10.2017) by virtue of The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(3)(d)** (with reg. 2)
- F504** Words in s. 76FB(4) inserted (1.1.2015) by The Public Water Supplies (Scotland) Regulations 2014 (S.S.I. 2014/364), regs. 1(1), **48(g)** (with reg. 1(3)(4))
- F505** Words in s. 76FB(8) omitted (27.10.2017) by virtue of The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(3)(e)** (with reg. 2)
- F506** Words in s. 76FB(8) inserted (1.1.2015) by The Public Water Supplies (Scotland) Regulations 2014 (S.S.I. 2014/364), regs. 1(1), **48(g)** (with reg. 1(3)(4))
- F507** S. 76FB(9)(a)(b) substituted (1.1.2015) by The Public Water Supplies (Scotland) Regulations 2014 (S.S.I. 2014/364), regs. 1(1), **48(h)** (with reg. 1(3)(4))
- F508** Word in s. 76FB(9)(a) inserted (27.10.2017) by The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(3)(f)(i)** (with reg. 2)
- F509** S. 76FB(9)(b): punctuation substituted (27.10.2017) by The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(3)(f)(ii)** (with reg. 2)
- F510** S. 76FB(9)(c)(d) omitted (27.10.2017) by virtue of The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(3)(f)(iii)** (with reg. 2)
- F511** S. 76FB(10) inserted (1.1.2015) by The Public Water Supplies (Scotland) Regulations 2014 (S.S.I. 2014/364), regs. 1(1), **48(i)** (with reg. 1(3)(4))

[^{F495}76F Effect, confirmation and variation of a notice under section 76FB

- (1) The provisions of section 76H(1) to (10) below shall have effect in relation to notices served under section 76FB above subject to the modifications set out in subsection (2) below.
- (2) The modifications to section 76H are—
 - (a) subsections (3)(c), (5)(b) and (5A) do not apply;
 - (b) for “76G” in each place where it occurs substitute “76FB”;
 - (c) for “relevant person” in both places where it occurs substitute “responsible person”;
 - (d) for “76G(2)(c) and (d)” in both places where it occurs substitute “76FB(3)(f) and (g)”;
 - (e) in subsection (5)(a), omit the words “, except where the case is one to which paragraph (b) below applies.”.
- (3) Any responsible person on whom a notice is served under section 76FB above, who fails without reasonable excuse to take any step as specified in the notice within the

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period so specified shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.]

Textual Amendments

F495 Ss. 76FA-76FC inserted (20.4.2010) by [The Water Quality \(Scotland\) Regulations 2010 \(S.S.I. 2010/95\)](#), regs. 1(1), 2

76G Remedial powers of local authorities in relation to private supplies.

(1) Subject to the following provisions of this section, where a local authority are satisfied in relation to any premises in their area which are supplied with water for [^{F512}domestic or food production purposes] by means of a private supply—

- (a) that any water which is being, has been or is likely to be supplied for those purposes to those premises by means of that private supply is not, was not or, as the case may be, is likely not to be wholesome; or
- (b) that that private supply is failing, has failed or is likely to fail to provide to any house on those premises such a supply of wholesome water as (so far as that house is concerned) is sufficient for domestic purposes,

the local authority may serve a notice in relation to that private supply on one or more of the relevant persons.

^{F513}(1A)

(2) A notice under this section in relation to a private supply of water to any premises shall—

- (a) give particulars of the matters mentioned in subsection (1) above in respect of which the notice is served;
- (b) specify the steps which, in the opinion of the local authority serving the notice, are required to be taken for ensuring that there is a supply of water to those premises which is both wholesome and (so far as any house on those premises is concerned) sufficient for domestic purposes;
- (c) specify a period ending not less than 28 days after the day on which the notice is served within which any representations or objections with respect to the notice must be received by that local authority; and
- (d) state the effect in relation to that notice of section 76H(2) and (3) below.

(3) Subject to section 76H below, where a local authority serve a notice under this section on any relevant person they may do one or more of the following, that is to say—

- (a) by that notice designate as steps to be taken by the authority themselves such of the steps specified in the notice as they consider it appropriate to so designate;
- (b) by that notice require that person, within such reasonable period as may be specified in the notice, to take one or more of the steps so specified;
- (c) by that notice require that person, at such times as may be determined in accordance with provision contained in the notice, to make to another relevant person or to that authority such payments as may be so determined in respect of expenses reasonably incurred by that other person or that authority in taking any step specified in the notice;

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- (d) by that notice undertake from time to time to make such payments to that person as may be so determined in respect of expenses reasonably incurred by that person in taking any step specified in the notice.
- (4) The power of a local authority to serve a notice under this section specifying the steps which are required to be taken in relation to any source from which a private supply is provided both to premises in the area of that authority and to premises in the area of another local authority shall be exercisable only where—
- (a) the other authority consent to the service of the notice; or
- (b) the authorities act jointly in exercising their respective powers under this section in relation to that source.
- (5) The powers conferred by this section and section 76H below shall be so exercised in relation to a private supply of water to any premises where there is no house as to secure that no local authority are required to bear any of the expenses incurred (whether by the authority or by any other person) in taking any steps for ensuring that the supply is wholesome which are specified in any notice under this section.
- (6) The steps that a relevant person may be required by a notice under this section to take in relation to any premises shall include—
- (a) requiring a supply of water to be provided to those premises by [^{F514}Scottish Water] or by any other person; and
- (b) taking such steps for the purpose of securing that such a requirement is complied with, and of enabling such a supply to be so provided, as may be specified in the notice.
- (7) For the purposes of this section and section 76H below the relevant persons, in relation to a private supply of water to any premises in the area of a local authority, are the owners and occupiers of those premises and (whether or not the source of the private supply is in that authority's area) the owners and occupiers of the premises where that source is situated and any other person who exercises powers of management or control in relation to that source.

Textual Amendments

F512 Words substituted by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\), s. 56\(4\)](#)

F513 [S. 76G\(1A\)](#) omitted (27.10.2017) by virtue of [The Water Intended for Human Consumption \(Private Supplies\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/282\)](#), reg. 1(1), [sch. 10 para. 1\(4\)](#) (with reg. 2)

F514 Words in [s. 76G\(6\)\(a\)](#) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 55](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)

76H Effect, confirmation and variation of notice under section 76G.

- (1) Subject to subsection (2) below, a notice served by a local authority under section 76G above shall not take effect until the end of the period specified in the notice as the period within which representations or objections with respect to the notice must be received by that authority.
- (2) Where any written representation or objection with respect to a notice by a local authority under section 76G above is received by the authority, before the end of the period specified in the notice, from a person on whom the notice was served, that notice shall not take effect unless—

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- (a) the notice is submitted by the authority to the Secretary of State and is confirmed by him either with or without modifications; or
 - (b) the representation or objection is withdrawn.
- (3) If a local authority submit a notice under section 76G above to the Secretary of State for confirmation, the Secretary of State—
- (a) shall consider whether the notice should be confirmed and whether, if it is confirmed, it should be confirmed with or without modifications;
 - (b) may, with respect to the matters specified in the notice or any proposed modification of it, direct the local authority to serve a notice under section 76G above, in such terms as may be specified in the direction, on any relevant person who has not previously been so served;
 - (c) may, for the purposes of paragraph (a) or (b) above—
 - (i) cause a local inquiry to be held; or
 - (ii) afford to the local authority and to every person who has made representations or objections with respect to the notice or a proposed direction under paragraph (b) above an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose;
- and
- (d) may, if he is satisfied that the person on whom any notice to be served in pursuance of a direction under paragraph (b) above has had a proper opportunity of having his representations or objections with respect to the proposal for the direction considered, dispense in relation to the notice so served with the provisions of subsections (1) and (2) above and of section 76G(2)(c) and (d) above.
- (4) Where the Secretary of State confirms a notice under section 76G above (whether with or without modifications)—
- (a) he, or if he so directs, the local authority concerned shall serve notice of that confirmation on every person originally served with the notice under that section; and
 - (b) that notice shall take effect, with any modifications made by the Secretary of State, at such time as may be specified in the notice served under this subsection.
- (5) Where any relevant person who is required by virtue of a notice under section 76G above to take any step in relation to any premises fails to take that step within the period specified in the notice, the authority which served the notice [^{F515}—
- (a) may, except where the case is one to which paragraph (b) below applies, take that step themselves in accordance with any applicable provision having effect by virtue of section 76I below; and
 - (b) may, in a case to which this paragraph applies, take that step themselves and for that purpose exercise the powers which [^{F516}Scottish Water] may, under this Act, exercise for the purpose of [^{F517}its] water undertaking.]
- [^{F518}(5A) Paragraph (b) of subsection (5) above applies to any case where the local authority are satisfied that the failure arose because the person was unable on reasonable terms to acquire any necessary rights—
- (a) to take water from a suitable source;
 - (b) to lay pipes through any land not belonging to him; or

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- (c) to do any other work.]
- (6) Where any step is taken by a local authority in relation to any premises by virtue of subsection (5) above—
- (a) the authority may recover from the person who failed to take that step within the specified period any expenses reasonably incurred by the authority in taking that step; and
 - (b) for the purposes of any requirement under which payments are required to be made to that person by any person other than the authority, sums paid by virtue of paragraph (a) above in respect of the taking of any step shall be deemed to be expenses incurred in the taking of that step by the person who failed to take it.
- (7) Nothing in this Act shall confer any right of action on any person in respect of any loss or damage sustained by that person in consequence of the failure by any other person to take any step specified in a notice under section 76G above; but any sum required to be paid to any person by virtue of any requirement or undertaking contained in such a notice shall be recoverable by that person from the person who is required to pay it.
- (8) Any requirement which is imposed by virtue of a notice under section 76G above on the owner or occupier of any premises and is expressed to bind those premises in relation to the owners or occupiers from time to time shall bind successive owners or, as the case may be, occupiers of those premises ^{F519}.
- (9) Subject to subsection (10) below, a local authority may by notice served on any person modify or revoke the effect in relation to that person of any notice under section 76G above or this subsection (including a notice which has been confirmed, with or without modifications, by the Secretary of State).
- (10) Section 76G(2)(c) and (d) and subsections (1) to (4) above shall apply, as they apply in relation to a notice under section 76G above, in relation to any notice served by a local authority on any person under subsection (9) above except where the notice—
- (a) extends the period within which any step is required to be taken by that person; or
 - (b) discharges, postpones or abates any obligation of that person to make a payment to the local authority.

Textual Amendments

- F515** Words in s. 76H(5) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(43)(a)**; S.I. 1994/2850, **art. 3(c)**
- F516** Words in s. 76H(5)(b) substituted (1.4.2002) by **Water Industry (Scotland) Act 2002** (asp 3), s. 71(1), **Sch. 6 para. 56(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F517** Word in s. 76H(5)(b) substituted (1.4.2002) by **Water Industry (Scotland) Act 2002** (asp 3), s. 71(1), **Sch. 6 para. 56(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F518** S. 76H(5A) inserted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(43)(b)**; S.I. 1994/2850, **art. 3(c)**
- F519** Words in s. 76H(8) repealed (4.1.1995) by 1994 c. 39, s. 180(1)(2), **Sch. 13 para. 119(43)(c)**, **Sch. 14**; S.I. 1994/2850, **art. 3(c)**

[^{F520}**76HA** Application of sections 76G and 76H to certain private supplies

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- (1) In their application to a private supply which is a ^{F521}supply of water to which the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017] apply, sections 76G and 76H above have effect subject to the modifications in subsections (2) and (3).
- (2) In section 76G–
- ^{F522}(a) in subsection (1), for “water for domestic or food production purposes” substitute “water intended for human consumption (within the meaning of the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017)”;
- (b) in subsection (2)(d), for “section 76H(2) and (3)” substitute “ section 76H(2), (3) and (11) ”;
- ^{F523}(ba)
- ^{F523}(c)
- ^{F523}(d)
- (e) for subsection (7), substitute–
- “(7) For the purposes of this section and section 76H below ^{F524}a “relevant person”], in relation to a private supply ^{F525}which is a supply of water to which the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 apply, has the same meaning as it has in those Regulations.”]; and
- ^{F526}(f)
- (3) In section 76H, after subsection (10), insert–
- “(11) Any relevant person on whom a notice is served under section 76G above, who fails without reasonable excuse to take any step as specified in the notice within the period so specified shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.”.]

Textual Amendments

- F520** S. 76HA inserted (3.7.2006) by The Private Water Supplies (Notices) (Scotland) Regulations 2006 (S.S.I. 2006/297), **art. 2**
- F521** Words in s. 76HA(1) substituted (27.10.2017) by The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(5)(a)** (with reg. 2)
- F522** S. 76HA(2)(a) substituted (27.10.2017) by The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(5)(b)(i)** (with reg. 2)
- F523** Ss. 76HA(2)(ba)-(d) omitted (27.10.2017) by virtue of The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(5)(b)(ii)** (with reg. 2)
- F524** Words in s. 76HA(2)(e) substituted (27.10.2017) by The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(5)(b)(iii)(aa)**, (with reg. 2)
- F525** Words in s. 76HA(2)(e) substituted (27.10.2017) by The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(5)(b)(iii)(bb)**, (with reg. 2)

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F526 S. 76HA(2)(f) omitted (27.10.2017) by virtue of [The Water Intended for Human Consumption \(Private Supplies\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/282\)](#), reg. 1(1), [sch. 10 para. 1\(5\)\(b\)\(ii\)](#) (with reg. 2)

76I Incidental powers of local authorities.

- (1) Subject to [^{F527}subsections (5) and (6)] below, a local authority may serve on any person a notice requiring him to furnish that authority, within a period or at times specified in the notice and in a form and manner so specified, with such information as is reasonably required by that authority for the purpose of exercising or performing any power or duty conferred or imposed on that authority by or under any of sections 76F to 76H above.
- (2) [^{F528}Subject to subsection (6) below,] any person designated in writing for the purpose by any local authority may—
 - (a) enter any premises for the purpose, in relation to any private supply, of—
 - (i) determining whether, and if so in what manner, any power or duty conferred or imposed on that authority by or under any of sections 76F to 76H above should be exercised or performed; or
 - (ii) exercising any such power or performing any such duty;
 - (b) enter any premises to which a supply of water is provided by [^{F529}Scottish Water] for the purpose, in relation to a supply so provided, of determining whether, and if so in what manner, such a power should be exercised or such a duty performed or of exercising such a power or performing such a duty; or
 - (c) carry out such inspections, measurements and tests on premises entered by that person or of articles found on any such premises, and take away such samples of water or of any land or articles, as the local authority—
 - (i) consider appropriate for the purposes of any such power or duty; and
 - (ii) have authorised that person to carry out or take away,and the provisions of subsections (3) to (7) of section 38 shall apply to the right of entry given by this subsection to any person designated by a local authority as they apply to the right of entry of an authorised officer of [^{F530}Scottish Water] .
- (3) Entry into any premises shall not be demanded as of right by virtue of this section except—
 - (a) in an emergency, or
 - (b) at a reasonable time and after 24 hours' notice of the intended entry has been given to the occupier of the premises.
- (4) The Secretary of State may by regulations make provision for restricting the information which may be required under subsection (1) above and for determining the form in which the information is to be so required.
- (5) A person who fails to comply with the requirements of a notice served on him under subsection (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale; and it shall be a defence for a person charged with an offence under this subsection to show that he had a reasonable excuse.
- [^{F531}(6) The foregoing provisions of this section do not apply as respects, but are without prejudice to the exercise of, a power conferred by section 76H(5)(b) above.]

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Textual Amendments

- F527** Words in s. 76I(1) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(44)(a)**; S.I. 1994/2850, **art. 3(c)**
- F528** Words in s. 76I(2) inserted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(44)(b)**; S.I. 1994/2850, **art. 3(c)**
- F529** Words in s. 76I(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 57** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F530** Words in s. 76I(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 57** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F531** S. 76I(6) added (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(44)(c)**; S.I. 1994/2850, **art. 3(c)**

76J Standards of wholesomeness.

- (1) The Secretary of State may by regulations make provision that water that is supplied to any premises is or is not to be regarded as wholesome for the purposes of this [^{F532}Act] if it satisfies or, as the case may be, fails to satisfy such requirements as may be prescribed.
- (2) Without prejudice to the generality of subsection (1) above, regulations under this section may, for the purpose of determining the wholesomeness of any water—
- prescribe general requirements as to the purposes for which the water is to be suitable;
 - prescribe specific requirements as to the substances that are to be present in or absent from the water and as to the concentrations of substances which are or are required to be present in the water;
 - prescribe specific requirements as to other characteristics of the water;
 - provide that the question whether prescribed requirements are satisfied may be determined by reference to such samples as may be prescribed;
 - enable the Secretary of State to authorise such relaxations of and departures from the prescribed requirements (or from any of them) as may be prescribed, to make any such authorisation subject to such conditions as may be prescribed and to modify or revoke any such authorisation or condition; and
 - enable the Secretary of State to authorise a local authority (either instead of the Secretary of State or concurrently with him) to exercise in relation to a private supply any power conferred on the Secretary of State by regulations made by virtue of paragraph (e) above.

Textual Amendments

- F532** Word in s. 76J(1) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(45)**; S.I. 1994/2850, **art. 3(c)**

76K Power to give effect to international obligations.

[^{F533}(1)] The Secretary of State may by regulations provide that the provisions of this Part shall have effect with such modifications as may be prescribed for the purpose of enabling Her Majesty's Government in the United Kingdom

[^{F534}(a) to give effect to any [^{F535} EU] obligation or exercise any related right; or

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- (b) to give effect to any obligation or exercise any related right under any international agreement to which the United Kingdom is for the time being a party.]

[^{F536}(2) In this section—

“modifications” includes additions, alterations and omissions; and
“related right”, in relation to an obligation, includes any derogation or other right to make more onerous provisions available in respect of that obligation.]

Textual Amendments

- F533** S. 76K renumbered (1.10.1991) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1, 130\)](#), s. 27(1), [Sch. 10 para. 9\(4\)](#)
- F534** Words substituted (1.10.1991) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1, 130\)](#), s. 27(1), [Sch. 10 para. 9\(4\)\(a\)](#)
- F535** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))
- F536** S. 76K(2) added (1.10.1991) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1, 130\)](#), s. 27(1), [Sch. 10 para. 9\(4\)\(b\)](#)

76L Interpretation etc. of Part VIA.

(1) In this Part—

“analyse”, in relation to any sample of land or water, includes subjecting the sample to a test of any description, and cognate expressions shall be construed accordingly;

[^{F537}“domestic distribution system” has the same meaning as it has in the [Public Water Supplies \(Scotland\) Regulations 2014](#)];

[^{F538}“food production purposes” shall be construed in accordance with subsection (1A) below;]

^{F539}
...

“micro-organism” includes any microscopic biological entity which is capable of replication;

“private supply” means, subject to subsection (2) below, a supply of water provided otherwise than by [^{F540}Scottish Water] (including a supply provided for the purposes of the bottling of water) and cognate expressions shall be construed accordingly;

^{F541}
...

[^{F542}“responsible person” has the meaning given by section 76FB(2) above;]

“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;

^{F543}
...

[^{F544}(1A) In this Part references to food production purposes are references to the manufacturing, processing, preserving or marketing purposes with respect to food or drink for which water supplied to food production premises may be used; and in this subsection ‘food production premises’ means premises used for the purposes of a business of preparing food or drink for consumption ^{F545}... .]

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- (2) For the purposes of any reference in this Part to a private supply, or to supplying water by means of a private supply, water shall be treated as supplied to any premises not only where it is supplied from outside those premises, but also where it is abstracted, for the purpose of being used or consumed on those premises, from a source which is situated on the premises themselves; and for the purposes of this subsection water shall be treated as used on any premises where it is bottled on those premises for use or consumption elsewhere.
- (3) The rights conferred by virtue of this Part as against the owner or occupier of any premises shall be without prejudice to any rights and obligations, as between themselves, of the owner and occupier of the premises in question.

Textual Amendments

- F537** Words in s. 76L substituted (27.10.2017) by [The Water Intended for Human Consumption \(Private Supplies\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/282\)](#), reg. 1(1), **sch. 10 para. 1(6)(a)** (with reg. 2)
- F538** Definition inserted by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\)](#), s. **56(5)**
- F539** Definition in s. 76L(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(46), **Sch. 14; S.I. 1996/323**, art. 4(1)(c)(d), **Sch. 2**
- F540** Words in s. 76L in definition of "private supply" substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 58** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F541** Words in s. 76L omitted (27.10.2017) by virtue of [The Water Intended for Human Consumption \(Private Supplies\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/282\)](#), reg. 1(1), **sch. 10 para. 1(6)(b)** (with reg. 2)
- F542** Words in s. 76L inserted (20.4.2010) by [The Water Quality \(Scotland\) Regulations 2010 \(S.S.I. 2010/95\)](#), regs. 1(1), **5**
- F543** Definition in s. 76L(1) repealed (4.1.1995) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(46), **Sch. 14; S.I. 1994/2850**, **art. 3(c)**
- F544** S. 76L(1A) inserted by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\)](#), s. **56(6)**
- F545** Words in s. 76L(1A) repealed (1.1.2015) by [The Public Water Supplies \(Scotland\) Regulations 2014 \(S.S.I. 2014/364\)](#), regs. 1(1), **48(j)** (with reg. 1(3)(4))

F546 PART VIB

RAW WATER QUALITY

Textual Amendments

- F546** Pt. 6B inserted (10.6.2013 for specified purposes, 21.12.2013 in so far as not already in force) by [Water Resources \(Scotland\) Act 2013 \(asp 5\)](#), **ss. 30(2)**, 56(1)(2); S.S.I. 2013/163, art. 3, **sch.**, S.S.I. 2013/342, art. 2(b)

76M Power to enter

- (1) Scottish Water may—
- (a) enter any premises for the purposes of—
 - (i) assessing or monitoring the quality of any raw water, or
 - (ii) investigating or isolating anything that appears to be affecting, or may affect, the quality of any raw water,

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- (b) take any steps at the premises which are reasonably required for those purposes.
- (2) Subsection (1)—
 - (a) authorises entry only if the occupier of the premises has been given at least 24 hours' notice of the intended entry for those purposes,
 - (b) does not authorise entry into a house.
- (3) Subsection (1) has effect whether the water or thing is located at the premises or elsewhere.
- (4) In subsection (1), the reference to affecting the quality of the water is to affecting its quality adversely (directly or indirectly).
- (5) In this section, “raw water”—
 - (a) means water contained in any bodies of water—
 - (i) identified by an order made under section 6(1) of the Water Environment and Water Services (Scotland) Act 2003, or
 - (ii) specified by an order made under section 76R(1),
 - (b) also includes water that flows or drains into any bodies of water so identified or specified (or is capable of doing so).
- (6) But excluded from the definition given by subsection (5) is any water that is used or available as or for a private water supply within such meaning as the Scottish Ministers may by order prescribe for the purpose of this subsection.

76N Entry warrants

- (1) Scottish Water may apply to the sheriff for a warrant authorising it to—
 - (a) enter particular premises for the purposes mentioned in section 76M(1),
 - (b) take any steps at the premises which are reasonably required for those purposes.
- (2) The sheriff may grant the warrant sought if satisfied—
 - (a) that there are reasonable grounds for entering the premises for those purposes, and
 - (b) that—
 - (i) the first and second conditions are met, or
 - (ii) the third condition is met.
- (3) The first condition is that—
 - (a) admission to the premises has been refused,
 - (b) the taking of steps at the premises has been obstructed, or
 - (c) such refusal or obstruction may reasonably be expected.
- (4) The second condition is that notice of the intention to seek a warrant has been given to the occupier of the premises.
- (5) The third condition is that the premises are unoccupied.
- (6) A warrant under subsection (1)—
 - (a) remains valid until the purposes mentioned in section 76M(1) are fulfilled,
 - (b) allows the use of reasonable force (if required),

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(c) does not authorise entry into a house.

(7) Subsection (1) has effect whether the water or thing is located at the premises or elsewhere.

76O Approved persons

(1) Subsection (2) applies to the authority conferred on Scottish Water by—

- (a) section 76M(1), or
- (b) a warrant under section 76N(1).

(2) The authority is exercisable on behalf of Scottish Water by any person approved (in writing) by Scottish Water for the purposes mentioned in section 76M(1).

76P Taking steps

(1) Subsections (2) to (6) apply in relation to the exercise of the authority mentioned in section 76O(1)(a) or (b).

(2) An approved person must, if required by the occupier of the premises—

- (a) produce evidence of the approved person's identity (and approval), and
- (b) explain the nature of the authority by (as the case may be)—
 - (i) reference to section 76M, or
 - (ii) showing a copy of the warrant.

(3) An approved person may take onto the premises—

- (a) other persons acting under the approved person's direction,
- (b) such equipment as is necessary in connection with the steps that may be taken there.

(4) The steps that may be taken by an approved person at the premises include—

- (a) inspecting or measuring any water found there,
- (b) carrying out tests on or taking samples from any soil, water or other substance found there,
- (c) installing or maintaining any measuring, testing or sampling equipment for use there.

(5) An approved person may enter the premises only at a reasonable time.

(6) If the premises are unoccupied, an approved person must leave them as effectively secured against entry as they were when that person entered them.

(7) In subsections (2) to (6), “approved person” means person approved as mentioned in section 76O(2).

76Q Obstruction offence

(1) A person commits an offence if the person intentionally obstructs an approved person in the exercise of the authority mentioned in section 76O(1)(b).

(2) In subsection (1), “approved person” means person approved as mentioned in section 76O(2).

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- (3) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

76R Specifying bodies of water

- (1) For the purpose of section 76M(5)(a)(ii), the Scottish Ministers may by order specify any bodies of water that are—
- (a) used for the abstraction of water intended for human consumption, or
 - (b) intended to be used as mentioned in paragraph (a).
- (2) An order under subsection (1) may specify any bodies of water by reference to a map prepared in connection with the order (and laid along with it).
- (3) The Scottish Ministers must send to the Scottish Environment Protection Agency a copy of—
- (a) an order made under subsection (1), and
 - (b) any map prepared in pursuance of subsection (2).

76S Orders under this Part

An order under section 76M(6) or 76R(1) is subject to the negative procedure.]

PART VII

POWERS TO SUPPLY WATER DURING DROUGHT

77— ^{F547}
79.

Textual Amendments

F547 Ss. 77–79 repealed (1.10.1991) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1, 130\)](#), s. 27(2), [Sch. 11](#); [S.I. 1991/2187](#), [art. 3](#), Schedule

^{F548}**PART VIII**

WATER DEVELOPMENT BOARDS

Textual Amendments

F548 ss. 80–92 (Pt. VIII) repealed (1.4.1996) by [1994 c. 39](#), s. 180(1)(2), [Sch. 13 para. 119\(47\)](#), [Sch. 14](#); [S.I. 1996/323](#), [art. 4\(1\)\(c\)\(d\)](#), [Sch. 2](#)

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PART IX

GENERAL

93 Obtaining of information as to underground water.

- (1) Any person who proposes to sink, for the purpose of searching for or abstracting water, a well or borehole intended to reach a depth of more than 50 feet below the surface shall, before he begins to do so, give to the Natural Environmental Research Council notice in writing of his intention to do so, and shall keep a journal of the progress of the work, which shall include measurements of the strata passed through, and all the levels at which water is struck and subsequently rests, and shall allow any person authorised by the said council for the purpose, on the production of some duly authenticated document showing his authority, at all reasonable times—
 - (a) to have free access to any such well or borehole;
 - (b) to inspect the well or borehole and the material excavated therefrom;
 - (c) to take specimens of such material and of water abstracted from the well or borehole; and
 - (d) to inspect and take copies of or extracts from the journal required to be kept under this section.
- (2) The person sinking any such well or borehole shall, on completion or abandonment of the work, send a complete copy of the journal kept under subsection (1) to the council and shall also send them particulars of any test made, before such completion or abandonment, of the flow of water, specifying the rate of flow throughout the test and the duration of the test, and also, where practicable, specifying the water levels during the test and thereafter until the water has returned to its natural level.
- (3) Where any such well or borehole is sunk in connection with an existing pumping station, the particulars of any test to be supplied to the council shall also include the rate of pumping at the existing works during the test.
- (4) Where the person sinking a well or borehole on any land is not the occupier of the land, the obligation to allow a person authorised by the council to exercise the rights specified in paragraphs (a) to (d) of subsection (1) shall be the obligation of the occupier as well as of the person sinking the well or borehole.
- (5) Where any person contracts to sink any well or borehole on land belonging to or occupied by any other person and the execution of the work is under the control of the contractor, the contractor and no other person shall be deemed for the purposes of this section to be the person sinking the well or borehole.
- (6) The person sinking a well or borehole or (if a different person) the owner or occupier of the land on which it is sunk may give notice in writing to the council requiring them to treat as confidential any copy of or extract from the journal required to be kept under subsection (1) or any specimen taken under that subsection, and the council shall thereupon not allow that copy, extract or specimen, except in so far as it contains or affords information as to water resources and supplies, to be published or shown to any person not being an officer of the council or of the Secretary of State, unless the person giving the notice consents thereto:

Provided that, if at any time the council give notice to that person that in their opinion his consent is unreasonably withheld, then that person may, within three months after the notice is given by the council, appeal to the Court of Session, but if at the expiration

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of that period no such appeal has been made, or if after hearing the appeal the Court does not make an order restraining them from doing so, the council may proceed as if such consent had been given.

(7) Any person who fails to comply with any obligation imposed on him by the provisions of this section shall be guilty of an offence against this Act and shall on summary conviction be liable to a fine not exceeding [^{F549}level 4 on the standard scale] and, where the offence continues after conviction, to a further fine of £20 for every day during which it so continues.

[^{F550}(8) Any person who in keeping a journal under subsection (1) or in furnishing information under subsection (2) or (3) makes any statement which he knows to be false or misleading in a material particular or recklessly makes any statement which is false or misleading in a material particular shall be guilty of an offence and shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.]

Textual Amendments

F549 Words in s. 93(7) substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), s. 289G, 289H, [Sch. 7D](#) (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), s. 54, [Sch. 6](#), which Sch. 6 was repealed (1.4.1996) by [1995 c. 40](#), ss. 6, 7(2), [Sch. 5](#)) and those same words substituted (1.4.1996) by [1995 c. 40](#), ss. 3, 7(2), [Sch. 1 para. 10](#), [Sch. 2 Pt. III](#)

F550 S. 93(8) inserted (1.4.1996) by [1995 c. 25](#), s. 112, [Sch. 19 para. 2\(2\)](#); [S.I. 1996/186](#), [art. 3](#)

94 False information.

Any person who, in keeping any record or journal or in furnishing any return, abstract or information which he is required by or under this Act [^{F551}(other than by or under section 93)] to keep or furnish, knowingly or recklessly makes any statement which is false in a material particular shall be liable in respect of each offence—

- (a) on summary conviction, to a fine not exceeding [^{F552}the statutory maximum] or to imprisonment for a term not exceeding three months or to both such fine and imprisonment;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

Textual Amendments

F551 Words in s. 94 inserted (1.4.1996) by [1995 c. 25](#), s. 112, [Sch. 19 para. 2\(3\)](#); [S.I. 1996/186](#), [art. 3](#)

F552 Words substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [Sch. 6](#)

95 Penalties for offences.

Any person guilty of an offence under this Act shall, except where the provision by or under which the offence is created provides for the penalty to be imposed, be liable in respect of each offence—

- (a) on summary conviction, to a fine not exceeding [^{F553}the statutory maximum] and in the case of a continuing offence to a further fine not exceeding £25 for every day during which the offence is continued after conviction;

Changes to legislation: Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 05 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

- (b) on conviction on indictment, to imprisonment for a period not exceeding three months or to a fine, and in the case of a continuing offence to a fine for every day during which the offence is continued after conviction.

Textual Amendments
F553 Words substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [Sch. 15 para. 26](#)

96 **F554**

Textual Amendments
F554 S. 96 repealed by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 36:1\)](#), s. 59(2), [Sch. 4](#)

97 Continuing offences and penalties.

Where provision is made by or under this Act or any local enactment incorporating any provisions of Schedule 4 for the imposition of a daily penalty in respect of a continuing offence, the court by which a person is convicted may fix a reasonable period from the date of the conviction for compliance by that person with any directions given by the court, and, where the court has fixed such a period, the daily penalty shall not be recoverable in respect of any day before the expiration thereof.

98 Local inquiries.

The Secretary of State may cause such local inquiries to be held as he may consider necessary or proper in connection with the discharge by him of any of his functions under this Act or under any other enactment with respect to water supplies or water undertakings, and the provisions of section 210(2) to (9) of the ^{M10}Local Government (Scotland) Act 1973 shall apply to any such local inquiry and to any other local inquiry which he is required by this Act or any other such enactment to cause to be held.

Marginal Citations
M10 1973 c. 65.

99 Orders subject to special parliamentary procedure.

- (1) Any inquiry in relation to an order under this Act which in certain events becomes subject to special parliamentary procedure shall, if the Secretary of State so directs, be held by commissioners under the ^{M11}Private Legislation Procedure (Scotland) Act 1936; and any direction so given shall be deemed to have been given under section 2, as read with section 10, of the ^{M12}Statutory Orders (Special Procedure) Act 1945.
- (2) Nothing in section 210(2) to (9) of the Local Government (Scotland) Act 1973 shall apply to any inquiry under this section by commissioners under the Private Legislation Procedure (Scotland) Act 1936.

Changes to legislation: Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 05 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

- (3) The provisions of the ^{M13}Statutory Orders (Special Procedure) Act 1945 with regard to the publication of notices in the Edinburgh Gazette and in a newspaper shall, notwithstanding anything in that Act contained, not apply to any order under this Act which is subject to special parliamentary procedure.

Marginal Citations

- M11** 1936 c. 52.
M12 1945 c. 18.
M13 1945 c. 18.

100 Orders.

- (1) Any power to make orders under this Act may be exercisable by statutory instrument.

[^{F555}(2) Before making, on his own initiative, an order under section 107, the Secretary of State shall consult [^{F556}Scottish Water] .]

Textual Amendments

- F555** S. 100(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1) Sch. 13 para. 119(48); S.I. 1996/323, art. 4(1)(c)
F556 Words in s. 100(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), Sch. 6 para. 59 (with s. 67); S.S.I. 2002/118, art. 2(3)

101 Regulations.

- (1) The Secretary of State may make regulations prescribing anything required to be prescribed for the purpose of any provision of this Act.

[^{F557}(1A) Regulations made under this Act may make—

- (a) such supplemental, consequential or transitional provision as the Secretary of State thinks fit;
- (b) different provision for different cases or classes of case.]

[^{F558}(1B) The Secretary of State may by regulations make provision as to—

- (a) the manner in which and the time within which a question or dispute may be referred (other than by him for determination by arbitration), or a request may be made, in pursuance of section 6(3), 9(4) or 24(10) of this Act and as to the procedure for dealing with any such reference or request; and
- (b) the manner in which, subject to sections 76G and 76H of this Act, written representation or objection may be made, submitted or withdrawn under subsection (2) of the said section 76H.]

- (2) Any power to make regulations under this Act shall be exercisable by statutory instrument; and any instrument containing any such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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Textual Amendments

- F557** S. 101(1A) inserted (1.10.1991) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1, 130\)](#), s. 27(1), [Sch. 10 para. 9\(5\)](#)
- F558** S. 101(1B) added (4.1.1995) by [1994 c. 39, s. 115](#) (with s. 74(4)); S.I. 1994/2850, art. 3(a), [Sch. 2](#)

102 Expenses.

There shall be paid out of moneys provided by Parliament any expenses incurred by the Secretary of State in the exercise of his functions under this Act.

103 Notices to be in writing.

All notices, consents, approvals, demands and other documents authorised or required by or under this Act or any local enactment incorporating any provisions of Schedule 4 to be given, made or issued by the Secretary of State or any [^{F559}local authority], or [^{F560}Scottish Water]^{F561}, and all notices and applications authorised or required by or under this Act or any such local enactment to be given or made to the Secretary of State or to, or to any officer of, any [^{F559}local authority], or [^{F560}Scottish Water]^{F561}, shall [^{F562}, subject to section 23(4) of and paragraph 4(1) of Schedule 3 to this Act,] be in writing.

Textual Amendments

- F559** Words in s. 103 substituted (1.4.1996) by [1994 c. 39, s. 180\(1\)](#), [Sch. 13 para. 119\(49\)\(a\)\(c\)](#); S.I. 1996/323, [art. 4\(1\)\(c\)](#)
- F560** Words in s. 103 substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 60](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F561** Words in s. 103 repealed (1.4.1996) by [1994 c. 39, s. 180\(1\)](#), [Sch. 13 para. 119\(49\)\(b\)](#), [Sch. 14](#); S.I. 1994/323, [art. 4\(1\)\(c\)\(d\)](#), [Sch. 2](#)
- F562** Words in s. 103 inserted (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), s. 168(1), [Sch. 8, Pt. IV, para. 108\(5\)](#); S.I. 1992/2990, art. 2(2), [Sch. 2](#)

104 Appeal to sheriff-principal.

- (1) It shall be competent to appeal to the sheriff-principal against the decision of a sheriff on any application to him under this Act [^{F563}(other than an application under section 23(1A))] within 21 days after the date of that decision, but subject thereto the decision of the sheriff-principal or sheriff shall be final.
- (2) The provisions of this section shall also apply in the case of applications to the sheriff-principal under any local enactment incorporating any provisions of Schedule 4.

Textual Amendments

- F563** Words in s. 104(1) inserted (1.4.1996) by [1994 c. 39, s. 180\(1\)](#), [Sch. 13 para. 119\(50\)](#); S.I. 1996/323, [art. 4\(1\)\(c\)](#)

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105 Reference to arbitration.

In arbitrations under this Act or under any local enactment incorporating any provisions contained in Schedule 4, the reference shall, except where otherwise expressly provided, be to a single arbiter to be appointed by agreement between the parties or in default of agreement by the Secretary of State.

106 Supplementary provisions relating to determination of disputes.

- (1) Where for the purposes of this Act the Secretary of State or an arbiter is required to determine a dispute, the following provisions of this section shall apply in relation to that determination.
- (2) Any such arbiter shall have the like powers for securing the attendance of witnesses and the production of documents, and with regard to the examination of witnesses on oath and the awarding of expenses, as if the arbitration were under a submission.
- (3) The arbiter may, and if so directed by the Court of Session shall, state a case for the opinion of that Court on any question of law arising in the proceedings.
- (4) Any award of the Secretary of State or, as the case may be, of an arbiter, under ^{F564}this Act] may be recorded in the Books of Council and Session for execution, and may be enforced accordingly.

Textual Amendments

F564 Words in s. 106(4) substituted (4.1.1995) by 1994 c. 39, s. 180(1), SCh. 13 para. 119(51); S.I. 1994/2850, art. 3(c)

107 Repeal, amendment and adaptation of local enactments.

- (1) The Secretary of State may by order—
 - (a) on his own initiative, repeal or amend any local enactment relating to the supply of water, or
 - (b) on the application of ^{F565}Scottish Water^{F566}, repeal or amend any local enactment relating to the supply of water—
 - (i) by or to ^{F567}Scottish Water], or
 - (ii) ^{F568}
- (2) The power conferred on the Secretary of State by the foregoing subsection shall include power to consolidate any such local enactments as aforesaid, with or without amendments.
- (3) Any order under this section may include such transitional, incidental, supplementary and consequential provisions as the Secretary of State may consider necessary or expedient.
- (4) The provisions of this section shall have effect without prejudice to the exercise of any power to repeal, amend or adapt local enactments which is conferred by any other enactment, including any enactment contained in this Act.
- (5) The provisions of Part I of Schedule 1 shall apply to orders made under this section on the application of ^{F569}Scottish Water^{F566}.

Changes to legislation: Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 05 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

Textual Amendments

- F565** Words in s. 107(1)(b) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 61\(a\)\(i\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F566** Words in s. 107(1)(b)(5) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(52), [Sch. 14](#); S.I. 1996/323, [art. 4\(1\)\(c\)\(d\), Sch. 2](#)
- F567** Words in s. 107(1)(b)(i) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 61\(a\)\(ii\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F568** S. 107(1)(b)(ii) repealed (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 61\(a\)\(iii\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F569** Words in s. 107(5) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 61\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

108 Transitional provisions and savings.

The transitional provisions and savings contained in Schedule 9 shall have effect.

109 Interpretation.

- (1) In this Act the following expressions shall subject to any express provision or anything in the context to the contrary have the meanings hereby respectively assigned to them, that is to say—

^{F570}

[^{F571}“agricultural lands and heritages” means any lands and heritages used for agricultural or pastoral purposes only or as woodlands, market gardens, orchards, allotments or allotment gardens and any lands exceeding 1011.75 square metres used for the purpose of poultry farming, but does not include any lands occupied together with a house as a park, garden or pleasure ground or any land kept or preserved mainly or exclusively for sporting purposes]

[^{F572}“area”, in relation to Scottish Water, means the area comprising all of the local government areas established by virtue of section 1 of the Local Government etc. (Scotland) Act 1994 (c.39);]

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“communication pipe”, subject to section 110, means—

- (a) where the premises supplied with water abut on the part of the [^{F574}road] in which the main is laid and the service pipe enters those premises otherwise than through the outer wall of a building abutting on the [^{F574}road] and has a stopcock placed in those premises and as near to the boundary of that [^{F574}road] as is reasonably practicable, so much of the service pipe as lies between the main and that stopcock;
- (b) in any other case, so much of the service pipe as lies between the main and the boundary of the part of the [^{F574}road] in which the main is laid; and includes the ferrule at the junction of the service pipe with the main, and also—
 - (i) where the communication pipe ends at a stopcock, that stopcock; and
 - (ii) any stopcock fitted on the communication pipe between the end thereof and the main;

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“contravention” includes failure to comply, and “contravene” shall be construed accordingly;

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“enactment” means any Act of Parliament, whether public general, local or private, any statutory order or any provision in an Act of Parliament or statutory order;

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“fishery district” means a district for the purposes of the ^{M14}Salmon Fisheries (Scotland) Act 1862; and

“fishery district board” means the district board for a fishery district and for the purposes of this Act the Commissioners appointed under the ^{M15}Tweed Fisheries Act 1969 shall be deemed to be a fishery district board, and the river, as defined by the said Act of 1969, shall be deemed to be their fishery district;

“functions” includes powers and duties;

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.....

“house” means a dwelling-house, whether a private dwelling-house or not, and includes any part of a building if that part is occupied as a separate dwelling-house;

“land” includes land covered with water and any interest in land and any right or servitude in, to or over land and shall be interpreted accordingly for the purposes of any provisions of any Act incorporated with this Act;

[^{F579}“limits of supply”, in relation to Scottish Water, means the area of Scottish Water;]

“local enactment” means any local Act of Parliament, any statutory order or any provision in any such Act of Parliament or statutory order;

“main” means a pipe laid for the purpose of giving a general supply of water as distinct from a supply to individual consumers, and includes any apparatus used in connection with such a pipe;

“navigation authority” means any persons or body of persons, whether incorporated or not, having powers under an enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock;

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“occupier” means the tenant or sub-tenant or any person in the actual occupation of premises, but does not include a lodger or person in the occupation as tenant of a furnished house let for a period of less than a year, but includes the person by whom such a furnished house is let;

“outer wall”, in relation to a building abutting on a street, does not include the outer wall of a cellar, or other structure, belonging to that building but situated beneath the street;

“owner” ^{F580}includes in relation to any land or other premises any person who under the Lands Clauses Acts would be enabled to sell and convey the land or other premises to the promoters of an undertaking;

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“performance”, in relation to functions, includes the exercise of powers as well as the performance of duties, and “perform” shall be construed accordingly;

“premises” includes land and also tents, vans, sheds and similar structures;

“prescribed” means prescribed by [^{F581}or determined under] regulations made by the Secretary of State under this Act;

[^{F582}“private road” and “public road” have the same meanings as in the Roads (Scotland) Act 1984;]

[^{F583}“protection of the water environment” has the same meaning as in section 1(2) of the Water Environment and Water Services (Scotland) Act 2003 (asp 3)]

“reasonably practicable” means reasonably practicable in all the circumstances, including in any case where works are involved the expense involved in executing the works;

“repeal”, in relation to a local enactment not contained in an Act, means revoke;

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[^{F585}“road” has the same meaning as in the [^{F586}Part IV of the New Roads and Street Works Act 1991];]

[^{F585}“roads authority” has the same meaning as in the Roads (Scotland) Act 1984;]

“service pipe” means so much of any pipe for supplying water from a main to any premises as is subject to water pressure from that main, or would be so subject but for the closing of some tap;

“statutory order” means an order or scheme made under an Act of Parliament, including an order or scheme confirmed by Parliament;

“stream” includes a river, burn, spring or other running water;

^{F587}

“a supply of water for domestic purposes” has the meaning assigned to it in section 7, and any reference to domestic purposes in relation to the supply of water shall be construed accordingly;

“supply of water in bulk” means a supply of water for distribution by [^{F588}Scottish Water];

“supply pipe” means so much of any service pipe as is not a communication pipe;

^{F589}

“watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices and passages through which water flows;

“water development board” means a board established by virtue of section 82(1) (a) and includes the Central Board;

[^{F590}“the water environment” has the same meaning as in section 3 of the Water Environment and Water Services (Scotland) Act 2003 (asp 3)]

“water fittings” includes pipes (other than mains), taps, cocks, valves, ferrules, meters, cisterns, baths, sinks, water-closets, soil-pans and other similar apparatus used in connection with the supply and use of water;

“waterworks” includes streams, springs, wells, pumps, reservoirs, cisterns, tanks, aqueducts, cuts, sluices, mains, pipes, culverts, engines and all machinery, lands, buildings and things for supplying, or used for supplying, water or used for protecting sources of water supply.

[^{F591}“wholesome” and cognate expressions shall be construed subject to the provisions of any regulations made under section 76J]

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^{F592}(2)

(3) In the construction of any enactment incorporated with this Act, the expressions “the promoters of the undertaking” or “the company”, and “the special Act”, shall be construed as meaning respectively the [^{F593}Scottish Water]^{F594} . . . , and this Act.

(4) In this Act, except where otherwise indicated—

- (a) a reference to a numbered Part, section or Schedule is a reference to the Part or section of, or the Schedule to, this Act so numbered, and
- (b) a reference in a section to a numbered subsection is a reference to the subsection of that section so numbered, and
- (c) a reference in a section, subsection or Schedule to a numbered paragraph is a reference to the paragraph of that section, subsection or Schedule so numbered.

^{F595}(5)

Textual Amendments

- F570** Definitions in s. 109(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(53)(a)(i), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F571** Definition in s. 109(1) substituted (19.5.1997) by 1997 c. 29, s. 33(1), **Sch. 3 para. 16**; S.I. 1997/1097, **art. 3**
- F572** In s. 109(1) definition of "area" substituted (1.4.2002) by **Water Industry (Scotland) Act 2002** (asp 3), s. 71(1), **Sch. 6 para. 62(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F573** Definition repealed by **Roads (Scotland) Act 1984** (c. 54, SIF 108), s. 156(1)(3), Sch. 9 para. 81(12)(a)(i), **Sch. 11**
- F574** Words substituted by **Roads (Scotland) Act 1984** (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(12)(a)(ii)**
- F575** S. 109(1): definition repealed (1.4.1993) by **Local Government Finance Act 1992** (c. 14), s. 117(2), **Sch. 14** (with s. 118(1)(2)(4)); S.I. 1993/575, art. 2(d), **Sch.**
- F576** Definitions repealed by **Abolition of Domestic Rates Etc. (Scotland) Act 1987** (c. 47, SIF 81:2, 103:2), s. 34, **Sch. 6**
- F577** Words in s. 109(1) repealed (1.4.2013) by **Police and Fire Reform (Scotland) Act 2012** (asp 8), s. 129(2), **sch. 8 Pt. 2**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F578** Definitions repealed by **Roads (Scotland) Act 1984** (c. 54, SIF 108), s. 156(1)(3), Sch. 9 para. 81(12)(a)(iii), **Sch. 11**
- F579** In s. 109(1) definition of "limits of supply" substituted (1.4.2002) by **Water Industry (Scotland) Act 2002** (asp 3), s. 71(1), **Sch. 6 para. 62(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F580** Words in definition in s. 109(1) repealed (4.1.1995) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(53)(a)(iv), **Sch. 14** (with s. 127); S.I. 1994/2850, art. 3(c)(d), **Sch. 3**
- F581** Words in definition of 'prescribed' in s. 109(1) inserted (6.3.1992) by **Local Government Finance Act 1992** (c. 14), s. 107, **Sch. 11**, Pt. IV, para. 38(f) (with s. 118(1)(2)(4))
- F582** Definition inserted by **Roads (Scotland) Act 1984** (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(12)(a)(iv)**
- F583** In s. 109(1) definition of "protection of the water environment" inserted (1.4.2006) by virtue of **The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006** (S.S.I. 2006/181), art. 2, **Sch. Pt. IV** {para. 4(3)} (with Sch. Pt. III para. 6)
- F584** Definitions in s. 109(1) repealed (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 34(4)**; S.I. 1996/186, **art. 3**
- F585** Definitions inserted by **Roads (Scotland) Act 1984** (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(12)(a)(v)**

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- F586** Words in s. 109(1) in definition of 'road' substituted (1.1.1993) by **New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), Sch. 8 para. 108(6); S.I. 1992/2990, art. 2(2), Sch. 2**
- F587** Definition repealed by **Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1)(3), Sch. 9 para. 81(12)(a) (vi), Sch. 11**
- F588** Words in s. 109(1) in definition of "supply of water in bulk" substituted (1.4.2002 subject to art. 3 of the commencing S.S.I.) by **Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), Sch. 6 para. 62(a)(iv) (with s. 67); S.S.I. 2002/118, art. 2(3)**
- F589** In s. 109(1) definition of "water authority" repealed (1.4.2002) by **Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), Sch. 6 para. 62(a)(iii) (with s. 67); S.S.I. 2002/118, art. 2(3)**
- F590** In s. 109(1) definition of "the water environment" inserted (1.4.2006) by virtue of **The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 2, Sch. Pt. IV {para. 4(3)} (with Sch. Pt. III para. 6)**
- F591** Definition in s. 109(1) added (4.1.1995) by **1994 c. 39, s. 180(1), Sch. 13 para. 119(53)(a)(vi) (with s. 127); S.I. 1994/2850, art. 3(c)**
- F592** S. 109(2) repealed by **Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1)(3), Sch. 9 para. 81(12)(b), Sch. 11**
- F593** Words in s. 109(3) substituted (1.4.2002) by **Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), Sch. 6 para. 62(b) (with s. 67); S.S.I. 2002/118, art. 2(3)**
- F594** Words in s. 109(3) repealed (1.4.1996) by **1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(53)(b), Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2**
- F595** S. 109(5) repealed (8.12.2014) by **Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, sch. 5 para. 21(4) (with s. 121, sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2**

Modifications etc. (not altering text)

- C14** S. 109: definitions applied (1.10.1991) by **Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1, 130), s. 22(1), S.I. 1991/2187, art. 3, Sch.**

Marginal Citations

- M14** 1862 c. 97.
M15 1969 c. xxiv.

110 Further provisions as to communication pipes, etc.

- (1) Where any main is laid alongside and within 60 feet of the middle of a [^{F596}road], then, for the purposes of the definition of "communication pipe" contained in section 109(1), the land in which the main is laid, and any land between the main and the [^{F596}road], shall be deemed to form part of the [^{F596}road], and references in that definition to the part of the [^{F596}road] in which the main is laid, and to the boundary of the [^{F596}road] in which the main is laid, shall be construed accordingly;

Provided that where the premises supplied with water lie between any such main as aforesaid and the [^{F596}road], only that land in which the main is laid together with any land between the main and those premises shall be deemed to form part of the [^{F596}road].

- (2) Where any main is laid as mentioned in subsection (1), the power of [^{F597}Scottish Water] to lay service pipes, stopcocks and other fittings under paragraph 4 of Schedule 3 shall include power, with the consent of every owner and occupier of the land, and subject to payment of compensation for any damage done by [^{F598}Scottish Water], to lay such pipes, stopcocks and fittings in, on or over any land which is deemed to form part of a [^{F596}road] for the purposes specified in subsection (1).

Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 05 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*

- (3) Any consent required for the purposes of subsection (2) shall not be unreasonably withheld, and any question whether such consent is, or is not, unreasonably withheld shall be referred to and determined by the Secretary of State; and any dispute as to the amount of compensation to be paid under subsection (2) shall be determined by arbitration in the manner provided by section 105.
- (4) For the avoidance of doubt, it is hereby declared that the provisions of section 24(3) apply to any pipe laid before the commencement of this Act which, by virtue of this section, is deemed to be a communication pipe.

Textual Amendments

- F596** Word substituted by **Roads (Scotland) Act 1984** (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(13)**
- F597** Words in s. 110(2) substituted (1.4.2002) by **Water Industry (Scotland) Act 2002** (asp 3), s. 71(1), **Sch. 6 para. 63(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F598** Words in s. 110(2) substituted (1.4.2002) by **Water Industry (Scotland) Act 2002** (asp 3), s. 71(1), **Sch. 6 para. 63(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

111 Saving for protective clauses in other Acts.

Except with the consent of the persons interested, no order made under section 29 shall abrogate or affect—

- (a) any provision contained in a local enactment for the protection or benefit of any specified person or class of persons or body of persons whether incorporated or not, other than a provision with respect to the discharge of compensation water into any watercourse;
- (b) any provision contained in a local enactment for conferring on or preserving to the public rights of enjoyment of air, exercise and recreation on land or rights of access to land for those purposes or for conferring any right of way.

112 Amendments and repeals.

- (1) The enactments specified in Schedule 10 shall have effect subject to the amendments specified in that Schedule, being amendments consequential upon the provisions of this Act.
- (2) The enactments specified in Schedule 10 shall have effect subject to the amendments specified in that Schedule, being amendments consequential upon the provisions of this Act.

Modifications etc. (not altering text)

- C15** The text of s. 112(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

113 Short title and extent.

- (1) This Act may be cited as the **Water (Scotland) Act 1980**.
- (2) This Act shall extend to Scotland only.

Changes to legislation:

Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 05 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.

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Changes and effects yet to be applied to :

- s. 24(1) words substituted by [2003 asp 3 sch. 4 para. 3\(2\)](#)
- s. 24(2) words substituted by [2003 asp 3 sch. 4 para. 3\(4\)](#)
- s. 24(3) word substituted by [2003 asp 3 sch. 4 para. 3\(5\)\(c\)](#)
- s. 24(3) words inserted by [2003 asp 3 sch. 4 para. 3\(5\)\(a\)](#)
- s. 24(3) words substituted by [2003 asp 3 sch. 4 para. 3\(5\)\(b\)](#)
- s. 24(4) word substituted by [2003 asp 3 sch. 4 para. 3\(6\)\(b\)](#)
- s. 24(4) words substituted by [2003 asp 3 sch. 4 para. 3\(6\)\(a\)](#)

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](#)