

Status: Point in time view as at 01/04/1996.

Changes to legislation: Water (Scotland) Act 1980, SCHEDULE 1 is up to date with all changes known to be in force on or before 21 October 2023. 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)

SCHEDULES

SCHEDULE 1

Sections 13, 17, 19 29, 72, 107.

PROCEDURE FOR MAKING ORDERS AND MAKING AND CONFIRMING BYELAWS

PART I

Orders made by the Secretary of State under section 17(2) and (if made on application of water authority or water development board) sections 19, 29(2) and 107(1)).

- 1 Applicants for any order to which this part of this Schedule applies shall submit to the Secretary of State a draft of the order which they desire him to make and shall publish once at least in each of two successive weeks in one or more local newspapers circulating in the area affected by the order a notice—
 - (a) stating the general effect of the order;
 - (b) specifying a place in or near the said area where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable hours during a period of 28 days from the date of the first publication of the notice;
 - (c) stating that within the said period any person may by notice to the Secretary of State object to the application.

- 2 Not later than the date on which the said notice is first published, the applicants shall serve a copy thereof—
 - (i) on the water authority, [^{F1}and local authority] for every area affected by the order along with a copy of the draft order;
 - (ii) where it is proposed that the order shall authorise the acquisition of rights to take water, on the fishery district board of any fishery district from which water is to be taken under the rights acquired, on any navigation authority exercising functions in relation to any watercourse from which water is to be taken under the rights acquired and on any public undertakers [^{F2}or licence holder within the meaning of Part I of the Electricity Act 1989] known by the applicants to be authorised by [^{F2}or by virtue of] any enactment to take or use water from any such watercourse and in the case of an order under section 17(2) [^{F3}on the Scottish Environment Protection Agency].

Textual Amendments

- F1** Words in [Sch. 1 para. 2\(i\)](#) substituted (1.4.1996) by 1994 c. 39, s. 180(1), [Sch. 13 para. 119\(54\)\(i\)](#); [S.I. 1996/323, art. 4\(1\)\(c\)](#)
- F2** Words inserted by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1), [Sch. 16 para. 26\(2\)\(a\)](#)

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F3 Words in Sch. 1 para. 2(ii) substituted (1.4.1996) by 1995 c. 25, s. 120, Sch. 22 para. 34(5)(a); S.I. 1996/186, art. 3

- 3 The applicants shall also publish in the Edinburgh Gazette a notice stating that they are about to apply for an order under the appropriate section, naming the limits of supply of the water authority ^{F4} affected by the order, specifying a place where a copy of the draft order and of any relevant map or plan may be inspected, and giving the name and date of issue of a local newspaper in which the notice explaining the effect of the order applied for will be found.

Textual Amendments

F4 Words in Sch. 1 para. 3 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(54)(b), Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2

- 4 The applicants shall, at the request of any person interested, furnish to him a copy of the draft order upon payment of such charge ^{F5} as they think reasonable.

Textual Amendments

F5 Words repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23, SIF 81:2), s. 41, Sch. 4

- 5 The Secretary of State may make an order in the terms of the draft submitted to him or in those terms as modified in such manner as he thinks fit, but, where he proposes to make any modification and considers that persons other than the applicants may be adversely affected thereby, he shall require the applicants to give and publish additional notices in such manner as he thinks best adapted for informing all persons so affected of the modification proposed.

- 6 If before the expiration of the 28 days referred to in paragraph 1 of this Schedule or of 25 days from the publication of the said notice in the Edinburgh Gazette, or before the expiration of any period specified in notices given under the last foregoing paragraph, an objection is received by the Secretary of State from any authority or board or undertakers [^{F6}or licence holder] on whom a notice is required to be served under paragraph 2 of this Schedule, or from any other person appearing to him to be affected by the application, or, as the case may be, by the proposed modification, and the objection is not withdrawn, the Secretary of State, before making any order on the application, shall cause a local inquiry to be held.

Textual Amendments

F6 Words inserted by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 26(2)(b)

- 7 After considering the report of any local inquiry under the last foregoing paragraph, and before making the order, the Secretary of State shall give to any person who has duly objected thereto, and has not withdrawn his objection, notice as to the order

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which he proposes to make, and shall not make the order until the expiration of 28 days from the date of the notice and, if within that period that person gives notice to the Secretary of State that he objects to the proposed order, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

8 The expenses incurred by the Secretary of State in connection with the making, notification and confirmation of an order under this Part of this Schedule shall be paid by the applicants and the Secretary of State may, in a case where there are two or more applicants, apportion such expenses between them.

9 F7

Textual Amendments

F7 Sch. 1 para. 9 repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23, SIF 81:2), s. 41, Sch. 4

PART II

Orders made by the Secretary of State under section 13(2) and (if no application by the water authority or water development board) sections 19 and 29(2).

10 Before making an order to which this Part of this Schedule applies, the Secretary of State shall publish once at least in each of two successive weeks in one or more local newspapers circulating in the area affected by the order, a notice—

- (a) stating the general effect of the order;
- (b) specifying a place in or near the said area where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable hours during a period of 28 days from the date of the first publication of the notice; and
- (c) stating that within the said period any person may by notice to the Secretary of State object to the making of the order.

11 Not later than the date on which the said notice is first published the Secretary of State shall serve a copy thereof—

- (i) on the water authority, [F8 and local authority] for every area affected by the order along with a copy of the draft order;
- (ii) where it is proposed that the order shall authorise the transfer of rights to take water, on the fishery district board of any fishery district, and on any navigation authority F9 exercising functions in relation to any watercourse, from which water is taken under the rights transferred F10 and on any public undertakers [F11 or licence holder within the meaning of Part I of the Electricity Act 1989] known by the Secretary of State to be authorised by [F11 or by virtue of] any enactment to take or use water from any such watercourse [F12 and on the Scottish Environment Protection Agency];

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- (iii) where it is proposed that the order shall provide for the furnishing of a supply of water in bulk, on the fishery district board of any fishery district from which water is taken by the persons who are to give the bulk supply.

Textual Amendments

- F8** Words in Sch. 1 para. 11(i) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 119(54(c)(i)); S.I. 1996/323, art. 4(1)(c)
- F9** Words in Sch. 1 para. 11(ii) repealed (1.4.1996) by 1995 c. 25, s. 120, Sch. 22 para. 34(5)(b), Sch. 24; S.I. 1996/186, art. 3
- F10** Words in Sch. 1 para. 11(ii) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 54(c)(ii), Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2
- F11** Words inserted by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 26(2)(c)
- F12** Words in Sch. 1 para. 11(ii) added (1.4.1996) by 1995 c. 25, s. 120, Sch. 22 para. 34(5)(b); S.I. 1996/186, art. 3

- 12 The Secretary of State shall also publish in the Edinburgh Gazette a notice stating that he is about to make the order, naming the limits of supply of the authority^{F13} affected by the order, specifying a place where a copy of the draft order and of any relevant map or plan may be inspected, and giving the name and date of issue of a local newspaper in which the notice explaining the effect of the order will be found.

Textual Amendments

- F13** Words in Sch. 1 para. 12 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(54)(d), Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2

- 13 The Secretary of State shall, at the request of any person interested, furnish him with a copy of the draft order upon payment of such charge^{F14} as the Secretary of State thinks reasonable.

Textual Amendments

- F14** Words in Sch. 1 para. 13 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(54)(e), Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2

- 14 The Secretary of State may make the order either in the terms of the draft or in those terms as modified in such manner as he thinks fit, but, where he proposes to make any modification and considers that persons other than the authority^{F15} to whom the order relates may be adversely affected thereby, he shall give and publish additional notices in such manner as he thinks best adapted for informing all persons likely to be affected by the modification proposed.

Textual Amendments

- F15** Words in Sch. 1 para. 14 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(54)(f), Sch. 14 (with s. 127); S.I. 1996/323, art. 4(1)(c)(d), Sch. 2

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- 15 If before the expiration of the 28 days referred to in paragraph 10 of this Schedule, or of 25 days from the publication of the said notice in the Edinburgh Gazette, or before the expiration of any period specified in notices given under the last foregoing paragraph, an objection is received by the Secretary of State from any authority or board or undertakers [^{F16}or licence holder] on whom a notice is required to be served under paragraph 11 of this Schedule or from any person appearing to him to be affected by the order or, as the case may be, by the proposed modification, and the objection is not withdrawn, the Secretary of State before making the order shall cause a local inquiry to be held.

Textual Amendments

F16 Words inserted by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1), **Sch. 16 para. 26(2)(d)**

- 16 After considering the report of any local inquiry under the last foregoing paragraph, and before making the order, the Secretary of State shall give to any person who has duly objected thereto, and has not withdrawn his objection, notice as to the order which he proposes to make, and shall not make the order until the expiration of 28 days from the date of the notice and, if within that period that person gives notice to the Secretary of State that he objects to the proposed order, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

- 17 The expenses incurred by the Secretary of State in connection with the making, notification and confirmation of an order under this Part of this Schedule shall be paid by the authority ^{F17} to whom the order relates, and the Secretary of State may, in a case where there are two or more such authorities ^{F17}, apportion such expenses between them.

Textual Amendments

F17 Words in [Sch. 1 para. 17](#) repealed (1.4.1996) by [1994 c. 39, s. 180\(1\)\(2\)](#), [Sch. 13 para. 119\(54\)\(g\)](#), **Sch. 14**; [S.I. 1996/323, art. 4\(1\)](#), **Sch. 2**

- 18 ^{F18}

Textual Amendments

F18 [Sch. 1 para. 18](#) repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\)](#), s. 41, **Sch. 4**

PART III

Agreements made by water authorities or water development boards under section 17

- 19 A water authority ^{F19} who propose to enter into an agreement to which this Part of this Schedule applies shall publish once at least in each of two successive weeks in

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one or more local newspapers circulating within their limits of supply ^{F19} a notice explaining the effect of the proposals and stating that objections thereto may be made to the Secretary of State within 28 days after the first publication of the notice, and shall send a copy of the notice to the water authority, [^{F20}and local authority] for any area, the fishery district board of any fishery district, and any navigation authority exercising jurisdiction in relation to any water course, from which water is proposed to be taken under the rights to be acquired, and where the river purification authority within whose area the stream affected is situated are not the same authority as the water authority, to that authority, and to any public undertakers known by the water authority ^{F19} to be authorised by any enactment to take or use water from any such watercourse.

Textual Amendments

- F19** Words in **Sch. 1 para. 19** repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), **Sch. 13 para. 119(54)(h)(i)**, **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F20** Words in **Sch. 1 para. 19** substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(54)(h)(ii)**; S.I. 1996/323, art. 4(1)(c)

- 20 The water authority ^{F21} shall also publish in the Edinburgh Gazette a notice stating that they propose to enter into such an agreement as aforesaid with the persons specified in the notice and giving the name and date of issue of a local newspaper in which the notice explaining the effect of the proposals will be found.

Textual Amendments

- F21** Words in **Sch. 1 para. 20** repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), **Sch. 13 para. 119(54)(i)**, **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

- 21 The Secretary of State shall not approve the agreement before the expiration of the said 28 days or before the expiration of 25 days from the publication of the said notice in the Edinburgh Gazette, and before approving it shall consider any objections which may have been received by him before the expiration of either of the said periods, and if before such expiration an objection is received by the Secretary of State from any authority or board or undertakers to whom a notice is required to be sent under paragraph 19 of this Schedule or who appear to him to be affected by the proposed agreement and the objection is not withdrawn, the Secretary of State shall, before approving the agreement, cause a local inquiry to be held.
- 22 After considering the report of any local inquiry under the last foregoing paragraph, and before making the order approving the agreement, the Secretary of State shall give to any person who has objected thereto under the said paragraph, and has not withdrawn his objection, notice as to the order which he proposes to make, and shall not make the order until the expiration of 28 days from the date of notice and, if within that period that person gives notice to the Secretary of State that he objects to the proposed order and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

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- 23 The expenses incurred by the Secretary of State in connection with the approval of agreements under this Part of this Schedule (whether by order or otherwise) and the confirmation of orders thereunder shall be paid by the authority^{F22} to whom the agreement or order relates, and in a case where there are two or more such authorities^{F22}, the Secretary of State may apportion such expenses between them.

Textual Amendments

F22 Words in Sch. 1 para. 23 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(54)(j), Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2

PART IV

Byelaws made by water authorities or water development boards under sections 70 and 71

- 24 Byelaws to which this Part of this Schedule applies shall be made under the common seal of the water authority^{F23} and shall not have effect until they are confirmed by the Secretary of State.

Textual Amendments

F23 Words in Sch. 1 para. 24 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(54)(k), Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2

- 25 At least one month before application for confirmation of the byelaws is made—
- (a) notice of the intention to apply for confirmation shall be published in the Edinburgh Gazette and in one or more local newspapers circulating in the area to which the byelaws apply, and
 - (b) a copy of the byelaws shall be sent to the [F24]local authority for any area] wholly or partly comprised in the area to which the byelaws apply.

Textual Amendments

F24 Words in Sch. 1 para. 25(b) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 119(54)(l); S.I. 1996/323, art. 4(1)(c)

- 26 For at least one month before such application is made, a copy of the byelaws shall be deposited at the offices of the water authority^{F25} and shall at all reasonable hours be open to public inspection without payment.

Textual Amendments

F25 Words in Sch. 1 para. 26 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(54)(k), Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2

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- 27 The water authority^{F26} shall, at the request of any person interested, furnish to him a copy of the proposed byelaws upon payment of such sum^{F27} as they may determine.

Textual Amendments

- F26** Words in [Sch. 1 para. 27](#) repealed (1.4.1996) by [1994 c. 39, s. 180\(1\)\(2\), Sch. 13 para. 119\(54\)\(k\), Sch. 14; S.I. 1996/323, art. 4\(1\)\(c\)\(d\), Sch. 2](#)
- F27** Words repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\), s. 41, Sch. 4](#)

- 28 Any person aggrieved by any such byelaws may, within one month after the publication of the notice required by paragraph 25 hereof, notify his objection and the ground of his objection to the Secretary of State who shall consider them before confirming the byelaws.
- 29 The Secretary of State may confirm with or without modification or refuse to confirm any byelaws submitted to him under this Part of this Schedule for confirmation, and may fix a date on which the byelaws are to come into operation and if no date is so fixed the byelaws shall come into operation at the expiration of one month from the date of their confirmation.
- 30 A copy of the byelaws when confirmed shall be printed and deposited at the offices of the water authority^{F28} and shall at all reasonable hours be open to public inspection without payment, and a copy thereof shall, on application, be furnished to any person on payment of such sum^{F29}, as the authority^{F28} may determine.

Textual Amendments

- F28** Words in [Sch. 1 para. 30](#) repealed (1.4.1996) by [1994 c. 39, s. 180\(1\)\(2\), Sch. 13 para. 119\(54\)\(m\), Sch. 14; S.I. 1996/323, art. 4\(1\)\(c\)\(d\), Sch. 2](#)
- F29** Words repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\), s. 41, Sch. 4](#)

- 31 The production of a printed copy of the byelaws on which is endorsed a certificate purporting to be signed by [^{F30}a duly authorised] officer of the authority^{F31}, stating—
- (a) that the byelaws were made by the authority^{F31};
 - (b) that the copy is a true copy of the byelaws;
 - (c) that on a specified date the byelaws were confirmed by the Secretary of State; and
 - (d) the date, if any, fixed by the Secretary of State for the coming into operation of the byelaws;
- shall be prima facie evidence of the facts stated in the certificate and without proof of the handwriting or official position of any person purporting to sign a certificate in pursuance of this paragraph.

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Textual Amendments

- F30** Words in Sch. 1 para. 31 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(54)(n)(i)**; S.I. 1996/323, **art. 4(1)(c)**
- F31** Words in Sch. 1 para. 31 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(54)(n)(ii), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

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