

**Changes to legislation:** Water (Scotland) Act 1980, Part VII is up to date with all changes known to be in force on or before 10 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

## SCHEDULES

### SCHEDULE 4

#### PROVISIONS TO BE INCORPORATED IN ORDERS RELATING TO WATER UNDERTAKINGS

##### Modifications etc. (not altering text)

- C1** Sch. 4 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 3, Sch. 7 para. 2 (1) (xxxviii), Sch. 8 para. 33
- C1** Sch. 4: 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)

### PART VII

#### PROVISIONS AS TO WASTE AND AS TO METERS

*Power to require provision of cisterns in certain cases.*

- 26 (1) The undertakers may require that—
- (a) any building the supply of water to which need not under the special Act be constantly laid on under pressure, and
  - (b) any house the erection of which was not commenced before 16th May 1946 and to which water is required to be delivered at a height greater than 35 feet below the draw-off level of the service reservoir from which a supply of water is being or is to be furnished by them,

shall be provided with a cistern having a ball-tap and stopcock fitted on the pipe conveying water to it and, in the case of such a house as is mentioned in paragraph (b) of this subsection, may require that the cistern shall be capable of holding sufficient water to provide an adequate supply to the house for a period of 24 hours.

- (2) Where, in the case of any house—
- (a) the erection of which was begun on or after the 16th May 1968, or
  - (b) to which a supply of piped water was given for the first time on or after that date, or
  - (c) in which water fittings likely to lead, in the opinion of the undertakers, to an increase in the consumption of water were installed after that date,

the undertakers consider that, in order to provide for an adequate supply of water throughout any 24-hour period, a cistern requires to be fitted, they shall serve a notice on the owner of the house requiring that the house shall be provided with a cistern capable of providing an adequate supply of water as aforesaid to that house, and that a ball-tap and stopcock shall be fitted on the pipe conveying water to it; and that notice shall include an intimation that any person aggrieved by the notice may, within 28 days of the service thereof, appeal against it to the Secretary of State; and, where such an appeal is made, the Secretary of State shall give such directions in the matter

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as may seem to him proper; and, subject to any such directions, the next following subsection shall have effect in relation to this subsection:

Provided that the undertakers shall not exercise any power conferred on them by that subsection until the determination by the Secretary of State of any appeal under this subsection.

- (3) If the owner of the building or house whom the undertakers have in accordance with the foregoing provisions required to provide a cistern fails to comply with the requirement, or if any cistern in use in the building or house or the ball-tap and stopcock pertaining to that cistern are not kept in good repair, the undertakers may themselves provide a cistern or execute any repairs necessary to prevent waste of water, and may recover the expenses reasonably incurred by them in so doing as a civil debt from the owner of the building or house, but without prejudice to the rights and obligations, as between themselves, of the owner and the occupier.

*Power to test water fittings.*

- 27 The undertakers may test any water fittings used in connection with water supplied by them.

*Power to enter premises to detect waste or misuse of water.*

- 28 An authorised officer of the undertakers may, between the hours of eight in the forenoon and eight in the afternoon, on producing, if required, evidence of his authority, enter any premises supplied with water by the undertakers in order to ascertain if there be any waste or misuse of such water, and, if, after production of his authority, he is refused admittance to the premises or is obstructed in making his examination, the person refusing him admittance or so obstructing him shall be liable on summary conviction to a fine not exceeding [<sup>F1</sup>level 3 on the standard scale].

**Textual Amendments**

- F1** Words in [Sch. 4 para. 28](#) 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](#)

*Power to repair supply pipes.*

- 29 (1) If the undertakers have reason to think that some injury to or defect in a pipe which they are not under obligation to maintain is causing, or is likely to cause, waste of water or injury to person or property, they may execute such work as they think necessary or expedient in the circumstances of the case without being requested so to do, and, if any injury to or defect in the pipe is discovered, the expenses reasonably incurred by the undertakers in discovering it and in executing repairs shall be recoverable by them as a civil debt from the owner of the premises supplied, but without prejudice to the rights and obligations, as between themselves, of the owner and occupier of the premises.
- (2) Where several houses in the ownership of different persons are supplied with water by one common supply pipe, the amount of any such expenses as aforesaid reasonably incurred from time to time by the undertakers in the maintenance and

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repair of that pipe may be recovered by them from those owners in such proportions as, in case of dispute, may be settled by arbitration.

*Penalty for waste, etc., of water by non-repair of pipes, etc.*

- 30 (1) If any person wilfully or negligently causes or suffers any water fitting which he is liable to maintain to—
- (a) be or remain so out of order, or so in need of repair; or
  - (b) be or remain so constructed or adapted, or be so used,
- that the water supplied by the undertakers is, or is likely to be, wasted, misused or unduly consumed, or contaminated before use, or that foul air or any impure matter is likely to return into any pipe belonging to, or connected with a pipe belonging to, the undertakers, he shall be liable to a fine not exceeding [<sup>F2</sup>level 3 on the standard scale].
- (2) If any water fitting is in such a condition, or so constructed or adapted, or so used, as aforesaid, the undertakers, whether proceedings have or have not been taken in respect of the offence, may require the owner or the occupier of the premises to carry out repairs or alterations or to substitute another type of fitting, as they may reasonably consider necessary, and, if he fails to do so within 48 hours, may themselves carry out the work and recover from him as a civil debt 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.

**Textual Amendments**

**F2** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289G, 457A**

*Penalty for misuse of water.*

- 31 (1) An owner or occupier of premises supplied with water by the undertakers who without their consent supplies any of that water to another person for use in other premises, or wilfully permits another person to take any of that water for use in other premises, shall be liable to a fine not exceeding [<sup>F3</sup>level 1 on the standard scale], unless that other person requires the water for the purpose of extinguishing a fire, or is a person supplied with water by the undertakers but temporarily unable, through no default of his own to obtain water.
- (2) If a person wrongfully takes, uses or diverts water from a reservoir, watercourse, conduit, pipe or other apparatus belonging to the undertakers, or from a pipe leading to or from any such reservoir, watercourse, conduit, pipe or other apparatus, or from a cistern or other receptacle containing water belonging to the undertakers or supplied by them for the use of a consumer of water from them, he shall be liable to a fine not exceeding [<sup>F3</sup>level 1 on the standard scale].
- (3) Any person who, having from the undertakers a supply of water otherwise than by meter, uses any water so supplied to him for a purpose not being a purpose for which he is entitled to use it shall be liable to a fine not exceeding [<sup>F3</sup>level 1 on the standard scale], without prejudice to the right of the undertakers to recover from him the value of the water misused.

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#### Textual Amendments

**F3** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289G, 457A**

#### *Penalty for injuring water fittings, etc., or for fraudulent use of water.*

- 32 (1) If any person wilfully or negligently injures, or suffers to be injured, any water fitting belonging to the undertakers, or fraudulently alters the index of any meter used by them for measuring the water supplied by them, or prevents any such meter from registering correctly the quantity of water supplied, or fraudulently abstracts or uses water of the undertakers, he shall, without prejudice to any right or remedy competent to the undertakers in the matter, be liable to a fine not exceeding [<sup>F4</sup>level 1 on the standard scale], and the undertakers may do all such work as is necessary for repairing any injury done, or for securing the proper working of the meter, and may recover the expenses seasonably incurred by them so doing from the offender.
- (2) For the purpose of this section, if it is proved that a consumer has altered the index of a meter, it shall rest upon him to prove that he did not alter it fraudulently, and the existence of any artificial means under the control of a consumer for preventing a meter from registering correctly or for enabling him fraudulently to abstract or use water, shall be evidence that he has fraudulently prevented the meter from registering correctly, or, as the case may be, has fraudulently abstracted or used water.

#### Textual Amendments

**F4** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289G, 457A**

#### *Penalty for interference with valves and apparatus.*

- 33 If any person either—
- (a) wilfully and without the consent of the undertakers, or
  - (b) negligently,
- turns on, opens, closes, shuts off or otherwise interferes with any valve, cock or other work or apparatus belonging to the undertakers and thereby causes the supply of water to be interfered with, he shall be liable to a fine not exceeding [<sup>F5</sup>level 3 on the standard scale] and, whether proceedings have been taken in respect of his offence or not, the undertakers may recover from him the amount of any damage sustained by them:
- Provided that this section shall not apply to a consumer closing the stopcock fixed on the service pipe supplying his premises, so long as he has obtained the consent of any other consumer whose supply will be affected thereby.

#### Textual Amendments

**F5** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289G, 457A**

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*Penalty for extension or alteration of pipes, etc.*

- 34 (1) Any person who without the consent of the undertakers attaches any pipe or apparatus to a pipe belonging to the undertakers, or to a supply pipe, or makes any alteration in a supply pipe or in any apparatus attached to a supply pipe, shall be liable to a fine not exceeding [<sup>F6</sup>level 1 on the standard scale], and any person who uses any pipe or apparatus which has been so attached or altered shall be liable to the same penalty, unless he proves that he did not know and had no grounds for suspecting that it had been so attached or altered.
- (2) When an offence under this section has been committed, then, whether proceedings have been taken in respect of his offence or not, the undertakers may recover from the offender the amount of any damage sustained by them and the value of any water wasted, misused or improperly consumed.

**Textual Amendments**

**F6** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289G, 457A**

*Meters to be connected, or disconnected by undertakers.*

- 35 (1) A person who has not obtained the consent of the undertakers shall not connect or disconnect any meter by means of which water supplied by the undertakers is intended to be, or has been, measured for the purposes of the payment to be made to them, but, if he requires such a meter to be connected or disconnected, shall give to the undertakers not less than 24 hours' notice of his requirements and of the time when the work can be commenced, and thereupon the undertakers shall carry out the necessary work and may recover from him the expenses reasonably incurred by them in so doing.
- (2) A person who contravenes any of the provisions of this section and undertakers who fail to carry out with all reasonable despatch any such work as aforesaid, shall be liable to a fine not exceeding [<sup>F7</sup>level 1 on the standard scale].

**Textual Amendments**

**F7** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289G, 457A**

*Meters, etc., to measure water or detect waste.*

- 36 Subject to the provisions of the special Act with respect to the breaking open of [<sup>F8</sup>roads], the undertakers may, for the purpose of measuring the quantity of water supplied, or preventing and detecting waste, affix and maintain meters and other apparatus on their mains and service pipes, and may insert in any [<sup>F8</sup>road], but as near as is reasonably practicable to the boundary thereof, the necessary covers or boxes for giving access and protection thereto, and may for that purpose temporarily obstruct, break open, and interfere with [<sup>F8</sup>roads], tramways, sewers, pipes, wires and apparatus:

Provided that the undertakers shall not under the powers of this section interfere with

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- [<sup>F9</sup>(a) any [<sup>F10</sup>electronic communications apparatus] kept installed for the purposes of [<sup>F11</sup>an electronic communications code network] , except in accordance with, and subject to the provisions of, [<sup>F12</sup>the electronic communications code] ; or]
- (b) any works or apparatus of any [<sup>F13</sup>public electricity supplier (within the meaning of Part I of the Electricity Act 1989) or any person authorised by a licence under that Part to generate or [<sup>F14</sup>participate in the transmission of] electricity.], except in accordance with the provisions of [<sup>F15</sup>the code in Part II of the <sup>M1</sup>Public Utilities Street Works Act 1950][<sup>F15</sup>Part IV of the New Roads and Street Works Act 1991]; or
- (c) any pipes or apparatus of any [<sup>F16</sup>public gas transporter (within the meaning of Part I of the Gas Act 1986)], except under the supervision (if given) of an authorised officer of [<sup>F16</sup>such public gas transporter] and in accordance with plans approved by them or by such officer or in case of any difference as determined by the sheriff.

#### Textual Amendments

- F8** Word substituted by *Roads (Scotland) Act 1984 (c. 54, SIF 108)*, s. 156(1), **Sch. 9 para. 81(15)(d)**
- F9** Para. (a) of the proviso substituted by *Telecommunications Act 1984 (c. 12, SIF 96)*, ss. 2, 109, **Sch. 4 para. 74(4)(5)**, **Sch. 5 para. 45**
- F10** Words in *Sch. 4 para. 36(a)* substituted (17.9.2003) by *The Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155)*, art. 3(1), **Sch. 1 para. 9(3)(a)**
- F11** Words in *Sch. 4 para. 36(a)* substituted (17.9.2003) by *The Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155)*, art. 3(1), **Sch. 1 para. 9(3)(b)**
- F12** Words in *Sch. 4 para. 36(a)* substituted (17.9.2003) by *The Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155)*, art. 3(1), **Sch. 1 para. 9(3)(c)**
- F13** Words substituted by *Electricity Act 1989 (c. 29, SIF 44:1)*, s. 112(1), **Sch. 16 para. 26(3)(b)**
- F14** *Sch. 4 section 36*: words in para. (b) of proviso substituted (1.9.2004) by *Energy Act 2004 (c. 20)*, s. 143, **Sch. 19 para. 1**; *S.I. 2004/2184*, **art. 2(2)**, *Sch. 2*
- F15** Words "Part IV of the New Roads and Street Works Act 1991" substituted (1.1.1993) for words from "the code" to the end of paragraph (b) by *New Roads and Street Works Act 1991 (c. 22, SIF 59, 108)*, s. 168(1), **Sch. 8**, Pt. IV para. 108(8)(b); *S.I. 1992/2990*, art. 2(2), **Sch. 2**
- F16** *Sch. 4 section 36*: words in para. (c) of proviso substituted (1.3.1996) by *1995 c. 45*, s. 16(1), **Sch. 4 para. 12**; *S.I. 1996/218*, **art. 2**

#### Marginal Citations

- M1** 1950 c. 39.

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**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](#)