

Changes to legislation: Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 04 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 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 [F1Where Scottish Water proposes to apply] for any order to which this part of this Schedule applies [F2it] shall submit to the Secretary of State a draft of the order which [F3it desires] 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.

Textual Amendments

- F1** Words in Sch. 1 para. 1 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), Sch. 6 para. 64(2)(a) (with s. 67); S.S.I. 2002/118, art. 2(3)
- F2** Word in Sch. 1 para. 1 inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), Sch. 6 para. 64(2)(b) (with s. 67); S.S.I. 2002/118, art. 2(3)
- F3** Words in Sch. 1 para. 1 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), Sch. 6 para. 64(2)(c) (with s. 67); S.S.I. 2002/118, art. 2(3)

- 2 Not later than the date on which the said notice is first published, [F4Scottish Water] shall serve a copy thereof—
- (i) on the [F5. . . [F6]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 [F7or licence holder within the meaning of Part I of the Electricity Act 1989] known by [F8Scottish Water] to be authorised by [F7or by virtue of] any enactment to take or use water from any such watercourse and in the case

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of an order under section 17(2) [^{F9}on the Scottish Environment Protection Agency].

Textual Amendments

- F4** Words in Sch. 1 para. 2 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(3)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F5** Words in Sch. 1 para. 2(i) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(3)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F6** 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)**
- F7** Words inserted by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 26(2)(a)**
- F8** Words in Sch. 1 para. 2(ii) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(3)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F9** 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 [^{F10}Scottish Water] shall also publish in the Edinburgh Gazette a notice stating that [^{F11}it is] about to apply for an order under the appropriate section, ^{F12}. . . 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

- F10** Words in Sch. 1 para. 3 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(4)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F11** Words in Sch. 1 para. 3 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F12** Words in Sch. 1 para. 3 repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(4)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

- 4 [^{F13}Scottish Water] shall, at the request of any person interested, furnish to him a copy of the draft order upon payment of such charge ^{F14} as [^{F15}it thinks] reasonable.

Textual Amendments

- F13** Words in Sch. 1 para. 4 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(5)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F14** Words repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23, SIF 81:2), s. 41, **Sch. 4**
- F15** Words in Sch. 1 para. 4 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(5)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

- 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 [^{F16}Scottish Water] may be adversely affected thereby, he shall require [^{F16}Scottish Water] to give and publish additional notices in such manner as he thinks best adapted for informing all persons so affected of the modification proposed.

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Textual Amendments

F16 Words in [Sch. 1 para. 5](#) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 64\(6\)](#) (with [s. 67](#)); [S.S.I. 2002/118, art. 2\(3\)](#)

- 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 [^{F17}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

F17 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 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 [^{F18}Scottish Water]^{F19}

Textual Amendments

F18 Words in [Sch. 1 para. 8](#) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 64\(7\)\(a\)](#) (with [s. 67](#)); [S.S.I. 2002/118, art. 2\(3\)](#)

F19 Words in [Sch. 1 para. 8](#) repealed (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 64\(7\)\(b\)](#) (with [s. 67](#)); [S.S.I. 2002/118, art. 2\(3\)](#)

- 9 ^{F20}

Textual Amendments

F20 [Sch. 1 para. 9](#) repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\), s. 41, Sch. 4](#)

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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 [^{F21}Scottish Water and on the][^{F22}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 ^{F23} exercising functions in relation to any watercourse, from which water is taken under the rights transferred ^{F24} and on any public undertakers [^{F25}or licence holder within the meaning of Part I of the Electricity Act 1989] known by the Secretary of State to be authorised by [^{F25}or by virtue of] any enactment to take or use water from any such watercourse [^{F26}and on the Scottish Environment Protection Agency];
 - (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

- F21** Words in Sch. 1 para. 11(i) substituted (1.4.2002) by *Water Industry (Scotland) Act 2002* (asp 3), s. 71(1), **Sch. 6 para. 64(8)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F22** 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)**
- F23** 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**
- F24** 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**
- F25** Words inserted by *Electricity Act 1989* (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 26(2)(c)**
- F26** 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, ^{F27} . . . 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.

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Textual Amendments

F27 Words in [Sch. 1 para. 12](#) 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. 64\(9\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

- 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 ^{F28} as the Secretary of State thinks reasonable.

Textual Amendments

F28 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 [^{F29}Scottish Water] 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

F29 Words in [Sch. 1 para. 14](#) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 64\(10\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

- 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 [^{F30}Scottish Water or] any authority or board or undertakers [^{F31}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

F30 Words in [Sch. 1 para. 15](#) inserted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 64\(11\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

F31 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.

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- 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 [^{F32}Scottish Water]

Textual Amendments

F32 Words in Sch. 1 para. 17 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), Sch. 6 para. 64(12) (with s. 67); S.S.I. 2002/118, art. 2(3)

- 18 ^{F33}

Textual Amendments

F33 Sch. 1 para. 18 repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23, SIF 81:2), s. 41, Sch. 4

^{F34}**PART III**

Textual Amendments

F34 Sch. 1 Pt. III repealed (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 2, Sch. Pt. I (with Sch. Pt. III)

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 ^{F46} . . . shall not have effect until they are confirmed by the Secretary of State.

Textual Amendments

F46 Words in Sch. 1 para. 24 repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), Sch. 6 para. 64(16) (with s. 67); S.S.I. 2002/118, art. 2(3)

- 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 [^{F47}local authority for any area] wholly or partly comprised in the area to which the byelaws apply.

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Textual Amendments

- F47** 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 [^{F48}Scottish Water]^{F49} and shall at all reasonable hours be open to public inspection without payment.

Textual Amendments

- F48** Words in [Sch. 1 para. 26](#) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\)](#), [Sch. 6 para. 64\(17\)](#) (with s. 67); [S.S.I. 2002/118, art. 2\(3\)](#)
- F49** 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](#)

- 27 [^{F50}Scottish Water]^{F51} shall, at the request of any person interested, furnish to him a copy of the proposed byelaws upon payment of such sum ^{F52} as [^{F53}it] may determine.

Textual Amendments

- F50** Words in [Sch. 1 para. 27](#) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\)](#), [Sch. 6 para. 64\(18\)\(a\)](#) (with s. 67); [S.S.I. 2002/118, art. 2\(3\)](#)
- F51** 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](#)
- F52** Words repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\), s. 41](#), [Sch. 4](#)
- F53** Word in [Sch. 1 para. 27](#) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\)](#), [Sch. 6 para. 64\(18\)\(b\)](#) (with s. 67); [S.S.I. 2002/118, art. 2\(3\)](#)

- 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 [^{F54}Scottish Water]^{F55} 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 ^{F56}, as [^{F57}Scottish Water]^{F55} may determine.

Textual Amendments

- F54** Words in [Sch. 1 para. 30](#) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\)](#), [Sch. 6 para. 64\(19\)\(a\)](#) (with s. 67); [S.S.I. 2002/118, art. 2\(3\)](#)

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- F55** 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**
- F56** Words repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23, SIF 81:2), s. 41, **Sch. 4**
- F57** Words in Sch. 1 para. 30 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(19)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

- 31 The production of a printed copy of the byelaws on which is endorsed a certificate purporting to be signed by [^{F58}a duly authorised] officer of [^{F59}Scottish Water]^{F60}, stating—
- (a) that the byelaws were made by [^{F59}Scottish Water]^{F60};
 - (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.

Textual Amendments

- F58** 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)**
- F59** Words in Sch. 1 para. 31 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(20)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F60** 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**

SCHEDULE 2

Section 18.

ORDERS UNDER SECTION 17 AUTHORISING COMPULSORY ACQUISITION OF LAND

- 1 The order shall incorporate the Lands Clauses Acts and section 6 of the ^{M1}Railways Clauses Consolidation (Scotland) Act 1845, and those Acts and the enactments relating to the compensation payable in respect of the compulsory acquisition of land shall apply accordingly subject to the exceptions and modifications specified in Parts I and II of Schedule 2 to the Act of 1947, and to such other exceptions and modifications (if any) as may be specified in the order.

Marginal Citations

- M1** 1845 c. 33.

- 2 A copy of the notice required by paragraph 1 or 10 of Schedule 1 to be published shall be served in accordance with the provisions of paragraph 2 or 11 of that Schedule on every owner, lessee and occupier (except tenants for a month or for any period less than a month) of any land authorised by the draft order to be compulsorily acquired.

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- 3 Where any such objection as is mentioned in paragraph 6 or 15 of Schedule 1 relates to the compulsory acquisition of land, the Secretary of State may require the objector to state in writing the grounds thereof, and if it is certified by the Secretary of State that the objection relates exclusively to matters that can be dealt with by the tribunal by whom the compensation for the compulsory acquisition is to be assessed—
- (a) the Secretary of State may disregard the objection for the purposes of the said paragraph 6 or 15, as the case may be; and
 - (b) where paragraph 7 or 16 of Schedule 1 applies to the order, the objection shall be disregarded for the purposes of that paragraph.
- 4 Notwithstanding anything in paragraph 5 or 14 of Schedule 1, the order as made by the Secretary of State shall not, unless all persons interested consent, authorise [^{F61}Scottish Water]^{F62} to acquire compulsorily any land which [^{F63}it] would not have been so authorised to acquire if it had been made in terms of the draft submitted to or prepared by him.

Textual Amendments

- F61** Words in Sch. 2 para. 4 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), Sch. 6 para. 65(a)(i) (with s. 67); S.S.I. 2002/118, art. 2(3)
- F62** Words in Sch. 2 para. 4 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(55), Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2
- F63** Word in Sch. 2 para. 4 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), Sch. 6 para. 65(a)(ii) (with s. 67); S.S.I. 2002/118, art. 2(3)

- 5 Subject as hereinafter provided, Part III of Schedule 1 to the Act of 1947 (which makes special provision with respect to land of local authorities and statutory undertakers, inalienable land of the National Trust for Scotland, and land being a common or open space or the site of an ancient monument) shall apply to the order as it applies to a compulsory purchase order:

Provided that where paragraph 7 or 16 of Schedule 1 applies to the order, this paragraph shall have effect as if for the reference to Part III of Schedule 1 to the Act of 1947 there were substituted a reference to paragraph 10 of the last mentioned Schedule.

- 6 As soon as may be after the order has been made, [^{F64}Scottish Water]^{F65} shall publish in one or more newspapers circulating in the locality in which the land authorised to be acquired is situated a notice describing the land and stating that the order has been made authorising [^{F64}Scottish Water]^{F65} to acquire it compulsorily, and naming a place where a copy of the order as made may be inspected at all reasonable hours, and shall serve a like notice and a copy of the order as made on any persons on whom notices with respect to the land were required to be served by virtue of paragraph 2 above.

Textual Amendments

- F64** Words in Sch. 2 para. 6 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), Sch. 6 para. 65(b) (with s. 67); S.S.I. 2002/118, art. 2(3)
- F65** Words in Sch. 2 para. 6 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(55), Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2

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- 7 Part IV of Schedule 1 to the Act of 1947 (which relates to the validity and date of operation of compulsory purchase orders under that Act) shall apply to the order as if it were a compulsory purchase order and as if this Act were included among the enactments specified in section 1(1) of that Act; and paragraph 15(1) of that Schedule shall have effect accordingly in relation to the order as if for the words “this Act”, in the third place where those words occur, there were substituted the words “Schedule 2 to the Water (Scotland) Act 1980”, and as if after the words “this Schedule”, in the second place where those words occur, there were inserted the words “or Schedule 2 to the Water (Scotland) Act 1980”:

Provided that nothing in this paragraph shall prohibit or restrict the taking of legal proceedings for questioning the order so far as it relates to matters other than the compulsory acquisition of land.

- 8 In this Schedule the expression “the Act of 1947” means the ^{M2}Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.

Marginal Citations

M2 1947 c. 42.

SCHEDULE 3

Sections 22, 24.

PROVISIONS AS TO BREAKING OPEN STREETS
AND LAYING COMMUNICATION AND SUPPLY PIPES

Modifications etc. (not altering text)

C1 Sch. 3: 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 I

Modifications etc. (not altering text)

C2 Sch. 3 Pt. I (paras. 1–3) applied with modifications by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), s. 170A(5) (as inserted by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 102, [Sch. 13](#))

Provisions as to breaking open streets, etc.

Power to break open streets.

- 1 Subject to the provisions of this Part of this Schedule, [^{F66}Scottish Water]^{F67} may, ^{F67} for the purpose of laying, constructing, inspecting, repairing, altering, renewing or removing mains, service pipes, plant or other works, ^{F67}, break open [^{F68}a road], and any cellar or vault below any [^{F69}road], and any sewer, drain or tunnel in or

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under any such [^{F70}road], and may remove and use the soil or other materials in or under any such [^{F70}road]:

Provided that [^{F71}it] shall in the exercise of the powers conferred by this paragraph cause as little inconvenience and do as little damage as may be, and for any damage done shall pay compensation to be determined, in case of dispute, by arbitration.

Textual Amendments

- F66** Words in Sch. 3 para. 1 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. 66\(2\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F67** Words in Sch. 3 para. 1 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(56)(a), [Sch. 14](#); S.I. 1996/323, art. 4(1)(c)(d), [Sch. 2](#)
- F68** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\), s. 156\(1\), Sch. 9 para. 81\(14\)\(a\)\(i\)](#)
- F69** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\), s. 156\(1\), Sch. 9 para. 81\(14\)\(a\)\(ii\)](#)
- F70** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\), s. 156\(1\), Sch. 9 para. 81\(14\)\(a\)\(iii\)](#)
- F71** Word in Sch. 3 para. 1 in proviso 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. 66\(2\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

Protection for railway companies, navigation authorities, tramway undertakers, etc.

- 2 (1) Except in cases of emergency arising from defects in existing pipes, plant or works, [^{F72}a private road] under the control or management of, or maintainable by, a railway company or navigation authority shall not be broken open without their consent, but that consent shall not be unreasonably withheld, and any question whether or not consent is unreasonably withheld shall be referred to and determined by the Secretary of State.
- (2) Where [^{F73}Scottish Water proposes] to break open [^{F74}any length of road] which forms a level-crossing belonging to persons not being a railway company or navigation authority and which is not under the control or management of a railway company or navigation authority, [^{F75}it] shall give to those persons the like notice as is referred to in [^{F76}section 114 of the New Roads and Street Works Act 1991] and, if and in so far as the proposed work is likely to affect the structure of any bridge or other works belonging to those persons, shall carry out the work to the reasonable satisfaction of the engineer or other authorised officer acting on behalf of those persons in accordance with plans approved by him.
- Any dispute arising under this sub-paragraph between [^{F77}Scottish Water]^{F78} and those persons shall be determined by arbitration.
- (3) For the protection of persons entitled to the benefit of section 32 of the ^{M3}Tramways Act 1870 (which relates to the rights of authorities and companies, etc., to open roads) that section shall be construed as applying to operations authorised by the special Act, and in the said section as so applied any reference to a tramway shall be construed as including a reference to a trolley vehicle system.
- (4) Nothing contained in this paragraph for the protection of owners of level-crossings shall affect the decision of any question which may arise as to the legality of the construction of, or the right to continue, any level-crossing.

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Textual Amendments

- F72** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 81(14)(b)(i)**
- F73** Words in [Sch. 3 para. 2\(2\)](#) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 66(3)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F74** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 81(14)(b)(ii)**
- F75** Word in [Sch. 3 para. 2\(2\)](#) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 66(3)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F76** Words in [Sch. 3 para. 2](#) 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(7)(a)**; S.I. 1992/2990, art. 2(2), **Sch. 2**
- F77** Words in [Sch. 3 para. 2\(2\)](#) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 66(3)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F78** Words in [Sch. 3 para. 2\(2\)](#) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), [Sch. 13 para. 119\(56\)\(b\)](#), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

Marginal Citations

- M3** 1870 c. 78.

3

F79

Textual Amendments

- F79** [Sch. 3 para. 3](#) repealed by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1)(3), **Sch. 9 para. 81(14)(c)**, [Sch. 11](#)

PART II

Modifications etc. (not altering text)

- C3** [Sch. 3 Pt. II \(paras. 4–9\)](#) applied with modifications by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), s. **170A(5)** (as inserted by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 102, **Sch. 13**)

Provisions as to laying communication and supply pipes, etc.

Power to lay service pipes, etc.

- 4 (1) [^{F80}Scottish Water] may in any [^{F81}road] lay such service pipes with such stopcocks and other fittings as [^{F82}it deems] necessary for supplying water to premises ^{F83}, and may from time to time inspect, repair, alter or renew and may at any time remove any service pipe laid in a [^{F81}road] whether by virtue of this section or otherwise:

Provided that before exercising any of the powers conferred by this paragraph, [^{F84}Scottish Water] shall, except in cases of emergency arising from defects in any existing pipes, plant or works, give [^{F85}such] notice, to [^{F86}—

- (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][^{F87}as would require to be given by an undertaker under section 114

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of the New Roads and Street Works Act 1991 (notice of starting date of works) in accordance with that section and with section 156 of that Act (service of notice)].

- (2) Where a service pipe has been lawfully laid in, on or over any land not forming part of a [^{F88}road], [^{F89}Scottish Water] may from time to time enter upon that land and inspect, repair, alter, renew or remove the then existing pipe or lay a new pipe in substitution therefor, but shall pay compensation for any damage done by them.

Any dispute as to the amount of compensation to be paid under this sub-paragraph shall be determined by arbitration.

Textual Amendments

- F80** Words in Sch. 3 para. 4(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 66\(4\)\(a\)\(i\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F81** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 81\(14\)\(d\)\(i\)](#)
- F82** Words in Sch. 3 para. 4(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 66\(4\)\(a\)\(ii\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F83** Words in Sch. 3 para. 4(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(56)(c), [Sch. 14](#); S.I. 1996/323, art. 4(1)(c)(d), [Sch. 2](#)
- F84** Words in Sch. 3 para. 4(1) in proviso substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 66\(4\)\(a\)\(iii\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F85** Word "such" in Sch. 3 para. 4 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\(7\)\(b\)](#); S.I. 1992/2990, art. 2(2), [Sch. 2](#)
- F86** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 81\(14\)\(d\)\(i\)](#)
- F87** Words in Sch. 3 para. 4 added (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\(7\)\(b\)](#); S.I. 1992/2990, art. 2(2), [Sch. 2](#)
- F88** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 81\(14\)\(d\)\(ii\)](#)
- F89** Words in Sch. 3 para. 4(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 66\(4\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

Laying of supply pipes, etc.

- 5 An owner or occupier of any premises ^{F90} who desires to have a supply of water for his domestic purposes from the waterworks of [^{F91}Scottish Water] shall, subject as hereinafter provided, comply with the following requirements:
- (a) he shall give to [^{F92}Scottish Water] 14 days' notice of his intention to lay the necessary supply pipe; and
 - (b) he shall lay the supply pipe at his own expense, having first obtained, as respects any land not forming part of a [^{F93}road], the consent of the owners and occupiers thereof:

Provided that, where any part of the supply pipe is to be laid in a [^{F93}road], he shall not himself break open the [^{F93}road] or lay that part of the pipe.

Textual Amendments

- F90** Words in Sch. 3 para. 5 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(56)(d)(i), [Sch. 14](#); S.I. 1996/323, art. 4(1)(c)(d), [Sch. 2](#)

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- F91** Words in Sch. 3 para. 5 substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 66\(5\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F92** Words in Sch. 3 para. 5 substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 66\(5\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F93** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\), s. 156\(1\), Sch. 9 para. 81\(14\)\(e\)](#)

Laying of communication pipes, etc.

- 6 (1) Upon receipt of such a notice as is referred to in the last foregoing paragraph, [^{F94}Scottish Water] shall, within 14 days after the person by whom the notice was given has laid a supply pipe in accordance with the provisions of the last foregoing paragraph, lay the necessary communication pipe and any part of the supply pipe which is to be laid in a [^{F95}road] and shall connect the communication pipe with the supply pipe:

Provided that, where any part of the supply pipe is to be laid in a [^{F95}road], [^{F96}it] may elect to lay a main in the [^{F95}road] for such distance as [^{F97}it thinks] fit in lieu of a supply pipe, and in that case shall lay a communication pipe from that main and connect it with the supply pipe.

- (2) The whole, or such part as [^{F98}Scottish Water] may think fit, of the expenses reasonably incurred by [^{F99}Scottish Water] in executing the work which [^{F100}it is] required or authorised by this paragraph to execute shall be repaid to [^{F101}it] by the person by whom the notice was given and may be recovered by [^{F101}it] from him:

Provided that, if under the provisions of this paragraph [^{F102}Scottish Water lays] a main in lieu of part of a supply pipe, the additional cost incurred in laying a main instead of a supply pipe shall be borne by [^{F101}it] .

- (3) Notwithstanding anything in the foregoing provisions of this paragraph, [^{F103}where such a notice as aforesaid is given to Scottish Water, it] may, within seven days after the receipt thereof, require the person giving the notice either to pay to [^{F104}it] in advance the cost of the work, as estimated by [^{F105}its] engineer, or to give security for payment thereof to [^{F105}its] satisfaction, and, where [^{F106}it makes] such a requirement, the period of 14 days referred to in sub-paragraph (1) of this paragraph shall not commence to run until the requirement has been complied with.

If any payment so made to [^{F107}Scottish Water] exceeds the expenses which under the foregoing provisions of this paragraph [^{F108}it] would be entitled to recover from the person giving the notice, the excess shall be repaid by [^{F104}it] , and, if and so far as those expenses are not covered by the payment, [^{F108}it] may recover the balance from him.

Textual Amendments

- F94** Words in Sch. 3 para. 6(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 66\(6\)\(a\)\(i\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F95** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\), s. 156\(1\), Sch. 9 para. 81\(14\)\(e\)](#)
- F96** Word in Sch. 3 para. 6(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 66\(6\)\(a\)\(ii\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

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- F97** Words in Sch. 3 para. 6(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(6)(a)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F98** Words in Sch. 3 para. 6(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(6)(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F99** Words in Sch. 3 para. 6(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(6)(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F100** Words in Sch. 3 para. 6(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(6)(b)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F101** Word in Sch. 3 para. 6(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(6)(b)(iv)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F102** Words in Sch. 3 para. 6(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(6)(b)(v)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F103** Words in Sch. 3 para. 6(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(6)(c)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F104** Word in Sch. 3 para. 6(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(6)(c)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F105** Word in Sch. 3 para. 6(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(6)(c)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F106** Words in Sch. 3 para. 6(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(6)(c)(iv)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F107** Words in Sch. 3 para. 6(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(6)(c)(v)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F108** Word in Sch. 3 para. 6(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(6)(c)(vi)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

Power of authority to require separate service pipes.

- 7 (1) Subject to the provisions of this paragraph [^{F109}Scottish Water] may require the provision of a separate service pipe for each house supplied, or to be supplied by [^{F110}it], with water.
- (2) If, in the case of a house already supplied with water but not having a separate service pipe, [^{F111}Scottish Water gives] notice to the owner of the house, requiring the provision of such a pipe, the owner shall within [^{F112}such period of not less than three months as the notice shall specify] lay so much of the required pipe as will constitute a supply pipe and is not required to be laid in a [^{F113}road], and [^{F114}Scottish Water] shall, within 14 days after he has done so, lay so much of the required pipe as will constitute a communication pipe or a supply pipe to be laid in a [^{F113}road] and make all necessary connections.
- (3) If an owner upon whom a notice has been served under the last foregoing sub-paragraph fails to comply therewith, [^{F115}Scottish Water] may [^{F116}itself] execute the work which he was required to execute.
- (4) The expenses reasonably incurred by [^{F117}Scottish Water] in executing the work which [^{F118}it is] required by sub-paragraph (2) to execute, or which [^{F118}it is] empowered by the last foregoing sub-paragraph to execute, shall be repaid to [^{F119}it] by the owner of the house and may be recovered by [^{F119}it] from him, but without prejudice to the rights and obligations as between themselves, of the owner and occupier of the house.

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- (5) Where two or more houses are being supplied with water by a single service pipe, [^{F120}Scottish Water] shall not require the provision of separate service pipes for those houses until ^{F121}—
- (a) the existing supply pipe becomes so defective as to require renewal, or is no longer sufficient to meet the requirements of the houses; or
 - (b) the houses are, by structural alterations to one or more of them, converted into a larger number of houses. [^{F122}; or
 - (c) the owner or occupier of any of the houses has interfered with, or allowed another person to interfere with, the existing service pipe or the stop-cock fixed to that pipe and has thereby caused the supply of water to any of the houses to be interfered with; or
 - (d) [^{F123}Scottish Water has] reasonable grounds to believe that such interference as is mentioned in (c) above is likely to take place.]

Textual Amendments

- F109** Words in Sch. 3 para. 7(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(7)(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F110** Word in Sch. 3 para. 7(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(7)(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F111** Words in Sch. 3 para. 7(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(7)(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F112** Words in Sch. 3 para. 7(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(7)(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F113** Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(14)(e)**
- F114** Words in Sch. 3 para. 7(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(7)(b)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F115** Words in Sch. 3 para. 7(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(7)(c)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F116** Word in Sch. 3 para. 7(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(7)(c)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F117** Words in Sch. 3 para. 7(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(7)(d)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F118** Words in Sch. 3 para. 7(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(7)(d)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F119** Word in Sch. 3 para. 7(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(7)(d)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F120** Words in Sch. 3 para. 7(5) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(7)(e)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F121** Word repealed by Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2), s. 58(a), **Sch. 4 Pt. 1**
- F122** Word and subparas.(c)(d) added by Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2), s. 58(b)
- F123** Words in Sch. 3 para. 7(5) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(7)(e)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

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Textual Amendments

F124 Sch. 3 para. 8 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(56)(e), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

Provisions as to the position of stopcocks.

- 9 (1) On every service pipe laid after 16th May 1946 [^{F125}Scottish Water] shall, and on every service pipe laid before that date [^{F125}Scottish Water] may, fit a stopcock enclosed in a covered box, or pit, of such size as may be reasonably necessary.
- (2) Every stopcock fitted on a service pipe after 16th May 1946 shall be placed in such position as [^{F126}Scottish Water deems] most convenient:

Provided that—

- (a) a stopcock in private premises shall be placed as near as is reasonably practicable to the [^{F127}road] from which the service pipe enters those premises; and
- (b) a stopcock in a [^{F127}road] shall, after consultation with the [^{F128}roads] authority concerned, be placed as near to the boundary thereof as is reasonably practicable.

Textual Amendments

F125 Words in Sch. 3 para. 9(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(8)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F126 Words in Sch. 3 para. 9(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(8)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F127 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(14)(f)(i)**

F128 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(14)(f)(ii)**

SCHEDULE 4

PROVISIONS TO BE INCORPORATED IN ORDERS RELATING TO WATER UNDERTAKINGS

Modifications etc. (not altering text)

C4 Sch. 4 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 3, **Sch. 7 para. 2** (1) (xxxviii), Sch. 8 para. 33

C5 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)**

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PART I

INTERPRETATION

Definitions, etc.

- 1 (1) In this Schedule the following expressions shall, unless the context otherwise requires, have the meanings hereby respectively assigned to them, that is to say:
- “authorised” means authorised by the special Act;
 - “consumer” means a person supplied, or about to be supplied, with water by the undertakers;
 - “factory” means factory within the meaning of the ^{M4}Factories Act 1961;
 - [^{F129}“prescribed” means prescribed by the special Act;
 - “special Act” means the Act or Part of an Act, or order with which any provisions of this Schedule are incorporated, with or without modification, and includes those provisions as so incorporated;
-
F130
.....
- “trunk main” means a main constructed for the purpose of conveying water from a source of supply to a filter or reservoir, or from one filter or reservoir to another filter or reservoir, or for the purpose of conveying water in bulk from one part of the limits of supply to another part of those limits, or for the purpose of giving or taking a supply of water in bulk;
 - “undertakers” means the persons whose water undertaking is authorised or regulated by the special Act.
- (2) Other expressions in this Schedule have the respective meanings assigned to them in this Act.
- (3) References in this Schedule to any enactment shall be construed as including references to that enactment as amended by any subsequent enactment including this Act.]

Textual Amendments

F129 Words in Sch. 4 para. 1(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)

F130 Definition repealed by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), ss. 2, 109, [Sch. 7 Pt. I](#)

Marginal Citations

M4 1961 c. 34.

PART II

WORKS AND LANDS

Permissible limits of deviation.

- 2 In the construction of any authorised works the undertakers may deviate laterally to any extent not exceeding the limits of deviation shown on the plans submitted to the Secretary of State and, where on any [^{F131}road] no such limits are shown, the

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boundaries of the [^{F131}road] (including for this purpose any verge or roadside waste adjoining it) shall be deemed to be such limits, and they may also deviate vertically from the levels shown on the deposited sections to any extent:

Provided that—

- (a) no embankment for a reservoir shall be constructed at a greater height above the general surface of the ground than that shown on the said plans and six feet in addition thereto; and
- (b) except for the purpose of crossing a stream, canal, dyke, watercourse or railway, or of crossing any lands where the consent of all persons interested in those lands has been obtained, no pipe or other conduit or aqueduct shall be raised above the surface of the ground otherwise than in accordance with the said plans.

Textual Amendments

F131 Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 81\(15\)\(a\)](#)

Modifications etc. (not altering text)

- C6** Sch. 4 para. 2 applied (with modifications) (15.1.1992) by [S.I. 1992/30](#), art. 3, [Sch. 2](#)
Sch. 4 para. 2 applied (with modifications) (3.3.1992) by [S.I. 1992/393](#), art. 3, [Sch. 2](#)
Sch. 4 para. 2 applied (with modifications) (20.4.1992) by [S.I. 1992/998](#), art. 3, [Sch. 2](#)
Sch. 4 para. 2 applied (with modifications) (17.6.1994) by [S.I. 1994/1556](#), art. 3, [Sch. 2](#)
Sch. 4 para. 2 applied (with modifications) (1.1.1995) by [S.I. 1994/3308](#), art. 3, [Sch. 2](#)
Sch. 4 para. 2 applied (with modifications) (3.4.1997) by [S.I. 1997/1115](#), art. 3, [Sch. 2](#)
Sch. 4 para. 2 applied (with modifications) (12.11.1999) by [S.S.I. 1999/127](#), art. 3, [Sch. 2](#)
Sch. 4 para. 2 applied (with modifications) (9.10.2001) by [S.S.I. 2001/369](#), art. 3, [Sch. 1](#)
Sch. 4 para. 2 applied (with modifications) (14.10.2005) by [S.S.I. 2005/508](#), [art. 3](#), [Sch. 2](#)
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Sch. 4 para. 2 applied (with modifications) (21.10.2005) by [S.S.I. 2005/513](#), [art. 3](#), [Sch. 2](#)
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Sch. 4 para. 2 applied (with modifications) (11.11.2005) by [S.S.I. 2005/577](#), [art. 3](#), [Sch. 2](#)
Sch. 4 para. 2 applied (with modifications) (11.11.2005) by [S.S.I. 2005/578](#), [art. 3](#), [Sch. 2](#)
Sch. 4 para. 2 applied (with modifications) (23.12.2005) by [S.S.I. 2005/649](#), [art. 3](#), [Sch. 2](#)
Sch. 4 para. 2 applied (with modifications) (14.3.2006) by [S.S.I. 2006/152](#), [art. 3](#), [Sch. 2](#)
Sch. 4 para. 2 applied (with modifications) (14.3.2006) by [S.S.I. 2006/153](#), [art. 3](#), [Sch. 2](#)
Sch. 4 para. 2 applied (with modifications) (2.6.2006) by [S.S.I. 2006/296](#), [art. 3](#), [Sch. 2](#)
Sch. 4 para. 2 applied (with modifications) (21.6.2006) by [S.S.I. 2006/360](#), [art. 3](#), [Sch. 2](#)
Sch. 4 para. 2 applied (with modifications) (21.6.2006) by [S.S.I. 2006/361](#), [art. 3](#), [Sch. 2](#)
C7 [Sch. 4 para. 2](#) applied (with modifications) (18.12.2008) by [The Scottish Water \(Loch of Boardhouse\) Water Order 2008 \(S.S.I. 2008/429\)](#), arts. 1, 3, [sch. 2](#)

Limit on powers of undertakers to take water.

- 3 The undertakers shall not construct any works for taking or intercepting water (other than works for intercepting foul water) from any lands acquired by them, unless the works are authorised by, and the lands on which the works are to be constructed are specified in, the special Act or some other enactment.

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General power to construct subsidiary works.

- 4 Subject to the provisions of the last foregoing section and to any other provisions of the special Act limiting the powers of the undertakers to abstract water, the undertakers, in addition to any works specifically authorised, may, in, on or over any land for the time being held by them in connection with their water undertaking construct, lay or erect for the purposes thereof or in connection therewith, and may maintain such reservoirs, sluices, tanks, cisterns, aqueducts, tunnels, culverts, mains, pipes, filters, engines, pumps, machinery, buildings and things for or in connection with the supply of water as they deem necessary:

Provided that any electrical works or apparatus constructed, laid or erected under this section shall be so constructed, laid or erected and so maintained and used, as to prevent interference with any [^{F132}electronic communications apparatus kept installed for the purposes of an electronic communications code network or with the service provided by any such network] .

Textual Amendments

F132 Words in Sch. 4 para. 4 substituted (17.9.2003) by [The Communications Act 2003 \(Consequential Amendments\) Order 2003 \(S.I. 2003/2155\)](#), art. 3(1), **Sch. 1 para. 9(2)**

- 5 **F133**

Textual Amendments

F133 Sch. 4 sect. 5 repealed by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), ss. 2, 109, Sch. 4 para. 74(2) (5), Sch. 5 para. 45, **Sch. 7 Pt. I**

Penalty for obstructing construction of works.

- 6 Any person who wilfully obstructs a person engaged by or under authority of the undertakers in setting out the line or site of any authorised works, or knowingly pulls up any peg or stake driven into the ground for the purpose of setting out such line or site or knowingly defaces or destroys anything made or erected for that purpose, shall be liable to a fine not exceeding [^{F134}level 1 on the standard scale].

Textual Amendments

F134 Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289G, 457A**

Power to acquire servitudes for underground work.

- 7 (1) Where the undertakers are authorised by the special Act to acquire any land compulsorily for the purpose of executing any underground works, they may, instead of purchasing the land, purchase only such servitudes and rights over or in the land as may be sufficient for the purpose, and the Lands Clauses Acts and the enactments relating to the compensation payable in respect of the compulsory acquisition of land shall apply accordingly subject to any exceptions and modifications with which those enactments are incorporated with the special Act and to any other necessary adaptations.

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- (2) The undertakers shall not be required or, except by agreement, be entitled to fence off or sever from adjoining lands any lands in respect of which they have acquired only servitudes or rights under the provisions of this section, and subject to those servitudes or rights and to any other restrictions imposed by the special Act, the owners or occupiers for the time being of those lands shall have the same rights of using and cultivating them as if that Act had not been passed.

Persons under disability may grant servitudes, etc.

- 8 Persons empowered by the Lands Clauses Acts to sell, convey and dispose of any lands may, subject to the provisions of those Acts and of the special Act, grant to the undertakers any servitude or right required for the purposes of the special Act over or in those lands, and the provisions of the Lands Clauses Acts with respect to lands and ^{F135} . . . rents or other annual or recurring payments shall, so far as applicable, apply in relation to such grants and to such servitudes and rights:

Provided that nothing in this section shall be construed as empowering persons to grant any servitude or right of water in which any other person has an interest, unless that other person concurs in the grant.

Textual Amendments

F135 Words in Sch. 4 para. 8 repealed (28.11.2004) by 2000 asp 5, ss. 71, 76(1)(2), 77(2), Sch. 12 para. 42(3), Sch. 13 Pt. 1 (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Extinction of private rights of way.

- 9 (1) Any private right of way over land which the undertakers are authorised to acquire compulsorily shall, if they so resolve and give notice of their resolution to the owner of the right, be extinguished as from the acquisition by them of the land, or as from the expiration of one month from the service of the notice, whichever may be the later.
- (2) The undertakers shall pay compensation to all persons interested in respect of any such right so extinguished, and such compensation shall, in case of dispute, be settled in manner provided by the Lands Clauses Acts with respect to the taking of lands otherwise than by agreement.

PART III

COMPENSATION WATER

Provisions as to compensation water.

- 10 (1) During the construction of any authorised impounding reservoir the undertakers may, subject as hereinafter provided, take from any stream to be impounded thereby such water as they may require:

Provided that before taking any water from the stream they shall, on an approved site, construct an approved gauge to gauge the flow of the stream, and, while the flow of water through or over the gauge is less than the prescribed flow, they shall not take any water.

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- (2) After the completion of the reservoir the undertakers shall, at an approved point within such limits as may be prescribed, discharge into the stream from, or from streams feeding, the reservoir during every day of 24 hours reckoned from midnight in a uniform and continuous flow a quantity of water not less than the prescribed quantity, and, for the purpose of gauging such discharge, they shall construct and maintain in good order approved gauges on approved sites.
- (3) If the undertakers—
- (a) fail to construct or maintain in good order any such gauge as aforesaid, or refuse to allow any person interested to inspect and examine any such gauge or any records made thereby or kept by them in connection therewith or to take copies of any such records; or
 - (b) take any water from the stream contrary to the provisions of subsection (1) of this section, or fail to comply with the requirements of subsection (2) of this section with respect to the discharge of water into the stream,
- they shall, without prejudice to their civil liability, if any, to a person aggrieved, be liable, in the case of an offence under paragraph (a) of this subsection, on summary conviction to a fine not exceeding [^{F136}level 3 on the standard scale], and in the case of an offence under paragraph (b) of this subsection—
- (i) on summary conviction, to a fine not exceeding [^{F137}the statutory maximum] ; and
 - (ii) on conviction on indictment, to a fine ^{F138}.
- (4) In this section, the expression “gauge” includes a gauge weir or other apparatus for measuring the flow of water, and the expression “approved” means approved by the Secretary of State; and for the purposes of this section a fishery district board and a navigation authority shall be deemed to be interested in the flow of water in, and the discharge of water into, any stream within their fishery district or, as the case may be, any part of their system of navigation or any stream feeding such a stream or any part of that system, and shall be deemed to be aggrieved by the commission of an offence under this section in relation to any such stream.
- (5) The foregoing provisions of this section shall be deemed to have been accepted by all persons interested as providing full compensation for all water impounded by the authorised works, except in respect of any land between the foot of the embankment of the reservoir and the point of discharge approved for the purposes of subsection (2) of this section.

Textual Amendments

F136 Words in Sch. 4 para. 10(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](#)

F137 Words substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [Sch. 15 para. 27\(a\)](#)

F138 Words repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [Sch. 15 para. 27\(b\)](#)

Modifications etc. (not altering text)

C8 Sch. 4 para. 10(3) applied (with modifications) (3.4.1997) by [S.I. 1997/1115](#), art. 3, [Sch. 2](#)
 Sch. 4 para. 10(3) applied (with modifications) (12.11.1999) by [S.S.I. 1999/127](#), art. 3, [Sch. 2](#)
 Sch. 4 para. 10(3) applied (with modifications) (12.11.1999) by [S.S.I. 1999/128](#), art. 3, [Sch. 2](#)

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- Sch. 4 para. 10(3) applied (with modifications) (28.8.2000) by [S.S.I. 2000/294](#), [arts. 1\(1\), 3](#)
- Sch. 4 para. 10(3) applied (with modifications) (17.7.2000) by [S.S.I. 2000/236](#), [arts. 1\(1\)\(3\)](#), [Sch. 2](#)
- Sch. 4 para. 10(3) applied (with modifications) (1.8.2000) by [S.S.I. 2000/237](#), [art. 3](#), [Sch. 2](#)
- Sch. 4 para. 10(3) applied (with modifications) (14.10.2005) by [S.S.I. 2005/508](#), [art. 3](#), [Sch. 2](#)
- Sch. 4 para. 10(3) applied (with modifications) (14.10.2005) by [S.S.I. 2005/509](#), [art. 3](#), [Sch. 2](#)
- Sch. 4 para. 10(3) applied (with modifications) (21.10.2005) by [S.S.I. 2005/513](#), [art. 3](#), [Sch. 2](#)
- Sch. 4 para. 10(3) applied (with modifications) (11.11.2005) by [S.S.I. 2005/577](#), [art. 3](#), [Sch. 2](#)
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- Sch. 4 para. 10(3) applied (with modifications) (23.12.2005) by [S.S.I. 2005/649](#), [art. 3](#), [Sch. 2](#)
- Sch. 4 para. 10(3) applied (with modifications) (14.3.2006) by [S.S.I. 2006/152](#), [art. 3](#), [Sch. 2](#)
- Sch. 4 para. 10(3) applied (with modifications) (14.3.2006) by [S.S.I. 2006/153](#), [art. 3](#), [Sch. 2](#)
- Sch. 4 para. 10(3) applied (with modifications) (2.6.2006) by [S.S.I. 2006/296](#), [art. 3](#), [Sch. 2](#)
- C9** Sch. 4 para. 10(3)(4) applied (with modifications) (15.1.1992) by [S.I. 1992/30](#), [art. 3](#), [Sch. 2](#)
- Sch. 4 para. 10(3)(4) applied (with modifications) (3.3.1992) by [S.I. 1992/393](#), [art. 3](#), [Sch. 2](#)
- Sch. 4 para. 10(3)(4) applied (with modifications) (20.4.1992) by [S.I. 1992/998](#), [art. 3](#), [Sch. 2](#)
- Sch. 4 para. 10(3)(4) applied (with modifications) (9.10.2001) by [S.S.I. 2001/369](#), [art. 3](#), [Sch. 1](#)
- Sch. 4 para. 10(3)(4) applied (with modifications) (11.11.2005) by [S.S.I. 2005/576](#), [art. 3](#), [Sch. 2](#)
- Sch. 4 para. 10(3)(4) applied (with modifications) (21.6.2006) by [S.S.I. 2006/360](#), [art. 3](#), [Sch. 2](#)
- Sch. 4 para. 10(3)(4) applied (with modifications) (21.6.2006) by [S.S.I. 2006/361](#), [art. 3](#), [Sch. 2](#)
- C10** Sch. 4 para. 10(3)(4)(5) applied (with modifications) (17.6.1994) by [S.I. 1994/1556](#), [art. 3](#), [Sch. 2](#)
- C11** Sch. 4 para. 10(3)(5) applied (with modifications) (1.1.1995) by [S.I. 1994/3308](#), [art. 3](#), [Sch. 2](#)
- C12** Sch. 4 para. 10(3)(4) applied (with modifications) (10.12.2007) by [The Scottish Water \(Loch Horn and Loch Lunndaidh\) Water Order 2007 \(S.S.I. 2007/554\)](#), [art. 3](#), [Sch. 2](#)
- C13** Sch. 4 para. 10(3) applied (with modifications) (18.12.2008) by [The Scottish Water \(Loch of Boardhouse\) Water Order 2008 \(S.S.I. 2008/429\)](#), [arts. 1, 3](#), [sch. 2](#)

PART IV

MINERALS UNDERLYING WATERWORKS

Modifications etc. (not altering text)

- C14** Sch. 4 Pt. IV incorporated (with modifications) (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), [s. 46\(3\)\(b\)](#) (with [s. 67](#)); [S.S.I. 2002/118](#), [art. 2\(3\)](#)

Undertakers not entitled to underlying minerals unless expressly purchased.

- 11 When the undertakers purchase any land, they shall become entitled to such parts of any mines of coals, ironstone, slate or other minerals under that land as it may be necessary for them to dig, carry away or use in the construction of any waterworks authorised by the special Act, but, save as aforesaid, they shall not by virtue only of their purchase of the land become entitled to any such mines or minerals which shall, save as aforesaid, be deemed to be excepted from the conveyance of the land unless expressly mentioned therein as conveyed thereby.

Map of underground works to be prepared and kept up to date.

- 12 (1) The undertakers shall, within six months after the first occasion on which any pipes or other conduits or underground works are laid or constructed by them after this section is incorporated with their enactments, cause the course and situation of all

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existing pipes or other conduits for the collection, passage or distribution of water and underground works belonging to them to be marked on a map (drawn on a scale of not less than six inches to one mile), and shall, from time to time within six months after the making of any alterations or additions, cause the said map to be so corrected as to show the course and situation of all such pipes and conduits and underground works for the time being belonging to them, and the map or a copy thereof bearing the date of its preparation and of the last occasion on which it was corrected shall be kept at the office of the undertakers.

In this subsection the expression “pipes” does not include service pipes.

- (2) The said map shall at all reasonable hours be open to inspection by any person interested free of charge.

Mines lying near the works not to be worked without notice to undertakers.

- 13 Subject to any agreement to the contrary, if the owner, lessee or occupier of any mines of coal, ironstone, slate or other minerals lying under the reservoirs or buildings of the undertakers or any of their pipes or other conduits or underground works shown on the map referred to in the last foregoing section, or lying within the prescribed distance therefrom, or, if no distance be prescribed, within 40 yards therefrom, desires to work the said mines or minerals, he shall give to the undertakers 30 days' notice of his intention so to do.

If undertakers unwilling to pay compensation, mines may be worked in usual manner.

- 14 (1) Upon receipt of such a notice as aforesaid, the undertakers may cause the said mines or minerals to be inspected by any person appointed by them for the purpose, and if it appears to them that the working thereof is likely to damage any of their reservoirs or buildings or pipes or other conduits or underground works shown on the said map, and if they are willing to pay compensation for the mines or minerals to the owner, lessee or occupier thereof, then he shall not work them, and the amount of the compensation to be paid shall, in case of dispute, be determined by the Lands Tribunal for Scotland.
- (2) If the undertakers have not, before the expiration of the said 30 days, stated their willingness to treat with the owner, lessee or occupier for the payment of compensation, it shall be lawful for him to work the said mines and minerals and to drain them by means of pumps or otherwise as if the special Act had not been passed, so however that no wilful damage be done to any of the said property or works of the undertakers and that the mines and minerals be not worked in an unusual manner.
- (3) Any damage or obstruction occasioned to any of the said property or works of the undertakers by the working of such mines or minerals in an unusual manner shall be forthwith repaired or removed and the damage made good by the owner, lessee or occupier of the mines or minerals, and if such repair or removal be not effected forthwith, or if the undertakers deem it necessary to take action without waiting for the work to be done by the owner, lessee or occupier, the undertakers may execute the work and recover from the owner, lessee or occupier the expenses reasonably incurred by them in so doing.

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Power to make mining communication where continuous working is prevented.

- 15 If the working of any such mines or minerals as aforesaid lying under the reservoirs or buildings of the undertakers or any of their pipes or other conduits or underground works shown on the map referred to in section 12 of this Schedule or lying within the abovementioned distance therefrom mentioned in section 13 of this Schedule, be prevented as aforesaid by reason of apprehended injury thereto, the respective owners, lessees and occupiers of the mines or minerals may cut and make such and so many airways, headways, gateways or water levels through the mines, measures or strata the working whereof is so prevented as may be requisite to enable them to ventilate, drain and work any mines or minerals on each or either side thereof, but no such airway, headway, gateway, or water level shall be of greater dimensions or sections than the prescribed dimensions or sections, or, if no dimensions are prescribed eight feet wide and eight feet high, nor be cut or made upon any part of the said property or works of the undertakers so as to cause injury thereto.

Undertakers to pay compensation for expenses incurred by reason of severance.

- 16 (1) Subject to any agreement to the contrary, the undertakers shall from time to time pay compensation to the owner, lessee or occupier of any mines of coal, slate, ironstone and other minerals lying on both sides of any reservoir, building, pipe or other conduit or other works of the undertakers for any loss and additional expense incurred by him by reason of the severance of the lands above such mines or minerals by the reservoir or other works, or by reason of the continuous working of such mines or minerals being interrupted as aforesaid, or by reason of their being worked under the restrictions imposed by the special Act, and also for any such mines or minerals not purchased by the undertakers as cannot be worked or won by reason of the making and continuance of the said works, or by reason of such apprehended injury from the working thereof as aforesaid.
- (2) The amount of any such compensation shall, in case of dispute, be determined by the Lands Tribunal for Scotland.

Undertakers may enter and inspect the working of mines.

- 17 For the purpose of ascertaining whether any such mines or minerals as aforesaid are being, have been or are about to be, worked so as to damage any of their said works, any authorised officer of the undertakers, after giving 24 hours' notice and on producing, if so required, some duly authenticated document showing his authority, may enter upon any lands in, on or near which the works are situate and under which they know or suspect that any such mines are being, have been or are about to be, worked, and may enter any such mines and the works connected therewith, using for his entry, inspection and return any apparatus or machinery belonging to the owner, lessee or occupier of the mines, and may use all necessary means for discovering the distance from the said works to the parts of the mines which are being, have been, or are about to be, worked.

Undertakers not exempted from liability for injury to mines.

- 18 Nothing in the special Act shall exempt the undertakers from liability to any action or other legal proceeding to which they would have been liable in respect of any damage or injury done or occasioned to any mines by means, or in consequence, of their waterworks, if those works had been constructed or maintained otherwise than by virtue of the special Act.

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PART V

SUPPLY OF WATER FOR PUBLIC PURPOSES

Undertakers to fix and maintain fire hydrants on pipes.

- 19 The undertakers shall, at the request of [^{F139}the Scottish Fire and Rescue Service] concerned, fix fire hydrants on their mains (other than trunk mains) at such places as may be most convenient for affording a supply of water for extinguishing any fire which may break out within the limits of supply, and shall keep in good order and from time to time renew every such hydrant.

Textual Amendments

F139 Words in Sch. 4 para. 19 substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [sch. 7 para. 51\(3\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

Modifications etc. (not altering text)

C15 Sch. 4 paras. 19-22 applied (2.8.2005) by virtue of [Fire \(Scotland\) Act 2005 \(asp 5\)](#), s. 21(1) (with s. 77); S.S.I. 2005/392, [art. 2](#)

Undertakers to deposit keys of hydrants at certain places.

- 20 As soon as any such hydrant is complete, the undertakers shall, if required by the [^{F140}Scottish Fire and Rescue Service], deposit a key thereof at each place within the limits of supply where any public fire engine is kept, and in such other places as may be appointed by the [^{F140}Scottish Fire and Rescue Service].

Textual Amendments

F140 Words in Sch. 4 para. 20 substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [sch. 7 para. 51\(4\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

Modifications etc. (not altering text)

C16 Sch. 4 paras. 19-22 applied (2.8.2005) by virtue of [Fire \(Scotland\) Act 2005 \(asp 5\)](#), s. 21(1) (with s. 77); S.S.I. 2005/392, [art. 2](#)

Cost of hydrants.

- 21 The cost of such hydrants as aforesaid and of fixing, maintaining and renewing them, and of providing such keys as aforesaid shall be defrayed by the [^{F141}Scottish Fire and Rescue Service].

Textual Amendments

F141 Words in Sch. 4 para. 21 substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [sch. 7 para. 51\(5\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

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Modifications etc. (not altering text)

C17 Sch. 4 paras. 19-22 applied (2.8.2005) by virtue of [Fire \(Scotland\) Act 2005 \(asp 5\)](#), **s. 21(1)** (with s. 77); [S.S.I. 2005/392](#), **art. 2**

[^{F142}21A The Scottish Ministers may by regulations make provision as to—
(a) the persons (other than Scottish Water) from whom; or
(b) the circumstances in which,
[^{F143}the Scottish Fire and Rescue Service] may recover costs defrayed under section 21 of this Schedule.]

Textual Amendments

F142 Sch. 4 para. 21A inserted (2.8.2005) by virtue of [Fire \(Scotland\) Act 2005 \(asp 5\)](#), **s. 22(2)** (with s. 77); [S.S.I. 2005/392](#), **art. 2**

F143 Words in Sch. 4 para. 21A substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), **sch. 7 para. 51(6)**; [S.S.I. 2013/51](#), **art. 2** (with transitional provisions and savings in [S.S.I. 2013/121](#))

Hydrants to be placed near factories, etc., at request of owners or occupiers.

22 The undertakers shall, at the request and expense of the owner or occupier of any factory or place of business situated in, or near to, a [^{F144}road] in which a pipe of the undertakers is laid (not being a trunk main, and being of sufficient dimensions to carry a hydrant) fix on the pipe and keep in good order and from time to time renew one or more fire hydrants, to be used only for extinguishing fires, as near as conveniently may be to that factory or place of business, and shall also at his expense comply as respects each such hydrant with the requirements of [^{F145}section 20 of this Schedule].

Textual Amendments

F144 Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 81(15)(b)**

F145 Words in Sch. 4 s. 22 substituted (2.8.2005) by [Fire \(Scotland\) Act 2005 \(asp 5\)](#), **s. 22(3)** (with s. 77); [S.S.I. 2005/392](#), **art. 2**

Modifications etc. (not altering text)

C18 Sch. 4 paras. 19-22 applied (2.8.2005) by virtue of [Fire \(Scotland\) Act 2005 \(asp 5\)](#), **s. 21(1)** (with s. 77); [S.S.I. 2005/392](#), **art. 2**

23 **F146**

Textual Amendments

F146 Sch. 4 para. 23 repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), s. 66(2), **Sch. 4 Pt. I**

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Supply of water for cleansing sewers, etc., and for other public purposes.

- 24 (1) In every pipe on which a hydrant is fixed the undertakers shall provide a supply of water for cleansing sewers and drains, for cleansing and watering [^{F147}roads] and for supplying any public pumps, baths or washhouses.
- (2) A supply of water for the said purposes shall be provided at such rates, in such quantities and upon such terms and conditions as may be agreed between the [^{F148}local] authority concerned and the undertakers [^{F149}or, in relation to roads for which the Secretary of State is roads authority, between the Secretary of State and the undertakers].

Textual Amendments

- F147** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 81\(15\)\(c\)\(i\)](#)
- F148** Word in Sch. 4 section 24(2) substituted (1.4.1996) by [1994 c. 39, s. 180\(1\)](#), [Sch. 13 para. 119\(57\)\(a\)\(i\)](#); [S.I. 1996/323, art. 4\(1\)\(c\)](#)
- F149** Words in Sch. 4 section 24(2) added (1.4.1996) by [1994 c. 39, s. 180\(1\)](#), [Sch. 13 para. 119\(57\)\(a\)\(ii\)](#); [S.I. 1996/323, art. 4\(1\)\(c\)](#)

PART VI

CONSTANCY AND PRESSURE OF SUPPLY

Duty of undertakers as respects constant supply and pressure.

- 25 Subject as hereinafter provided, the undertakers shall cause the water in all pipes on which hydrants are fixed, or which are used for giving supplies for domestic purposes, to be laid on constantly and at such a pressure as will cause the water to reach to the topmost storey of every building within the limits of supply:

Provided that—

- (a) nothing in this section shall require them to deliver water at a height greater than that to which it will flow by gravitation through their existing mains from the service reservoir or tank from which the supply in question is taken;
- (b) they may in their discretion determine the service reservoir or tank from which any supply is to be taken; and
- (c) the provisions of this section shall not apply if the undertakers are prevented from complying therewith by reason of frost, drought, unavoidable accident, or other unavoidable cause, or during the execution of necessary works.

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—

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- (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 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

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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 [^{F150}level 3 on the standard scale].

Textual Amendments

F150 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 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 [^{F151}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.

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Textual Amendments

F151 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 [^{F152}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 [^{F152}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 [^{F152}level 1 on the standard scale], without prejudice to the right of the undertakers to recover from him the value of the water misused.

Textual Amendments

F152 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 [^{F153}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.

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Textual Amendments

F153 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 [^{F154}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

F154 Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289G, 457A**

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 [^{F155}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

F155 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

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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 [^{F156}level 1 on the standard scale].

Textual Amendments

F156 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 [^{F157}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 [^{F157}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 [^{F157}roads], tramways, sewers, pipes, wires and apparatus:

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

- (a) any [^{F159}electronic communications apparatus] kept installed for the purposes of [^{F160}an electronic communications code network] , except in accordance with, and subject to the provisions of, [^{F161}the electronic communications code] ; or
- (b) any works or apparatus of any [^{F162}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 [^{F163}participate in the transmission of] electricity.], except in accordance with the provisions of [^{F164}the code in Part II of the ^{M5}Public Utilities Street Works Act 1950][^{F164}Part IV of the New Roads and Street Works Act 1991]; or
- (c) any pipes or apparatus of any [^{F165}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 [^{F165}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

F157 Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 81(15)(d)**

F158 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**

F159 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)**

F160 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)**

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- F161** 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)**
- F162** Words substituted by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1), **Sch. 16 para. 26(3)(b)**
- F163** 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
- F164** 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**
- F165** 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

M5 [1950 c. 39](#).

PART VIII

POLLUTION OF WATER BY MANUFACTURE OF GAS, ETC.

Provisions as to pollution by liquids resulting from manufacture of gas, etc.

- 37 Any person engaged in the manufacture or supply of gas, whether under statutory authority or not, or in any of the manufactures or trades mentioned in this subsection who—
- (a) causes or suffers any washing or other liquid produced in, or resulting from, the manufacture or supply of gas, or the treatment of any residual products of the manufacture of gas, or any product, washing or other substance produced in the manufacture of naphtha, vitriol, paraffin, dye stuffs or other deleterious substance or in any trade in which the refuse produced in any such manufacture is used, to run or be conducted—
 - (i) into, or into any drain communicating with, any stream, reservoir, aqueduct or other waterworks belonging to the undertakers; or
 - (ii) into any depression in the ground or excavation in such proximity to any spring, well or adit belonging to the undertakers that contamination of water there is reasonably probable; or
 - (b) wilfully does any other act connected with the manufacture or supply of gas or the treatment of any such residual products as aforesaid, or connected with any of the other manufactures or trades specified as aforesaid whereby any water of the undertakers is fouled,
- shall be liable—
- (a) on summary conviction to a fine not exceeding [^{F166}the statutory maximum] and to a further fine not exceeding £25 for each day during which his offence continues after conviction therefor; or
 - (b) on conviction on indictment to imprisonment for a period not exceeding three months or to a fine and to a further fine for each such day as aforesaid.

Textual Amendments

F166 Words substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **Sch. 15 para. 28**

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Provision as to pollution by gas.

- 38 If water belonging to the undertakers is fouled by gas belonging to any person manufacturing or supplying gas, he shall be liable to a fine not exceeding [^{F167}level 2 on the standard scale], and to a further fine not exceeding £25 for each day during which his offence continues after conviction therefor.

Textual Amendments

F167 Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289G, 457A**

Power to examine pipes and other works to ascertain source of pollution.

- 39 (1) For the purpose of ascertaining whether water belonging to them is being fouled by gas or otherwise, the undertakers may open the ground, and examine any pipes or other works from which they have reason to suspect that their water is being fouled:

Provided that, before proceeding so to do, they shall give 24 hours' notice of the time at which the examination is intended to take place both to the owners of the pipes or other works and also [^{F168}—

- (a) where the ground is, or comprehends, part of—
(i) a public road, to the roads authority; or
(ii) any other road, to the person responsible for the maintenance of that road, or, if no authority or person is so responsible, to the owners of the solum of that part; and
(b) where or in so far as the ground is not mentioned in head (a) above, to the person having the control or management of the ground;

and the undertakers] shall be subject to the like obligations and liable to the same penalties in relation to reinstatement, maintenance and other matters as those to which they are subject and liable when breaking open [^{F169}roads] for the purpose of laying water pipes.

- (2) If, upon such examination as aforesaid, it appears that water of the undertakers has been fouled by gas or otherwise from pipes or other works, the undertakers may recover from the owner of such pipes or other works the expenses reasonably incurred by them in connection with the examination and the repair of the [^{F170}road] or place disturbed in the examination, but otherwise the undertakers shall pay all expenses of the examination and repair, and shall also make good to the said owner any injury which may be occasioned to his pipes or other works by the examination.

The amount of the expenses of any such examination and repair, and of any injury so occasioned, shall in case of dispute be determined by arbitration.

Textual Amendments

F168 Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 81(15)(e)(i)**

F169 Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 81(15)(e)(i)**

F170 Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 81(15)(e)(ii)**

Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 04 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 IX

GENERAL AND MISCELLANEOUS

Notice of discontinuance.

- 40 A consumer who wishes the supply of water to his premises to be discontinued shall give not less than [^{F171}48] hours' notice to the undertakers.

Textual Amendments

F171 Words in [Sch. 4 section 40](#) substituted (1.4.1996) by [1994 c. 39, s. 180\(1\)](#), [Sch. 13 para. 119\(57\)\(b\)](#); [S.I. 1996/323, art. 4\(1\)\(c\)](#)

Duty of undertakers to give notice of certain works.

- 41 The undertakers before commencing to execute repairs or other work which will cause any material interference with the supply of water shall, except in a case of emergency, give to all consumers likely to be affected such notice as is reasonably practicable and shall complete the work with all reasonable dispatch.

Penalty for obstructing execution of special Act.

- 42 A person who wilfully obstructs any person acting in the execution of the special Act or of any byelaw or warrant made or issued thereunder shall be liable to a fine not exceeding [^{F172}level 1 on the standard scale] and to a further fine not exceeding £25 for each day on which the offence continues after conviction therefor.

Textual Amendments

F172 Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289G, 457A](#)

Proceedings for offences.

- 43 (1) Save as otherwise expressly provided, all offences and fines under the special Act or any byelaws made thereunder may be prosecuted and recovered under the ^{M6}Criminal Procedure (Scotland) Act 1975 [^{F173}but all such offences shall be triable only summarily.]
- (2) Any offence under the special Act or under any byelaws made thereunder (other than an offence in respect of which, if it is continued, a further penalty may be imposed) for which the maximum penalty that may be imposed does not exceed [^{F174}level 1 on the standard scale] may be prosecuted in any court of summary jurisdiction within the meaning of the Criminal Procedure (Scotland) Act 1975, having jurisdiction in the place where the offence was committed.
- [^{F175}(3) For the avoidance of doubt it is declared that conduct in respect of which a person is made liable to a fine by or under the provisions of this Schedule is an offence.]

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Textual Amendments

- F173** Words inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 77, **Sch. 15 para. 29(a)**
F174 Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289G, 457A**
F175 [Sch. 4](#) sect. 43(3) inserted by [Criminal Justice Act 1982 \(c.48, SIF 39:1\)](#), s. 80(2), s. 77, **Sch. 15 para. 29(b)**

Marginal Citations

- M6** [1975 c. 21.](#)

Liability of undertakers to pay compensation.

- 44 In any case where no express provision with respect to compensation is made by the special Act, the undertakers shall pay to the owners and occupiers of, and all other persons interested in, any lands or streams taken or used for the purposes of that Act, or injuriously affected by the construction or maintenance of the works thereby authorised or otherwise by the execution of the powers thereby conferred, compensation for the value of the lands or streams so taken or used and for all damage sustained by those owners, occupiers and other persons by reason of the exercise as to those lands and streams of the powers conferred on the undertakers by the special Act or any Act incorporated therewith.

The amount of such compensation shall, in case of dispute, be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

Protection for works of navigation authorities and for railways.

- 45 (1) Subject to the provisions of this section and to any provisions of the special Act empowering the undertakers to execute works specified therein, nothing in the special Act shall authorise the undertakers without the consent of the navigation authority concerned—
- to interfere with any river, canal, dock, harbour, basin, lock or reservoir so as injuriously to affect navigation thereon or the use thereof or the access thereto, or to interfere with any towing path so as to interrupt the traffic thereon;
 - to interfere with any bridge crossing any river, canal, dock, harbour or basin;
 - to execute any works in, across or under any dock, harbour, basin, wharf, quay or lock, or any land which belongs to a navigation authority and is held or used by them for the purposes of their undertaking;
 - to execute any works which will interfere with the improvement of or the access to any river, canal, dock, harbour, basin, lock, reservoir, or towing path or with any works pertaining thereto or any land necessary for the enjoyment or improvement thereof;

or, without the consent of the railway company concerned, to execute any works along, across or under any railway of a railway company:

Provided that consent under this section shall not be unreasonably withheld, and any question as to whether or not consent is unreasonably withheld shall be determined by arbitration.

- (2) Upon an arbitration under this section, the arbiter shall determine—

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- (i) whether any works which the undertakers propose to execute are such works as under the last foregoing sub-section they are not entitled to execute without consent; and
- (ii) if they are such works, whether the injury, if any, to the navigation authority or railway company will be of such a nature as to admit of being fully compensated by money; and
- (iii) if the works are of such a nature, the conditions including conditions of a financial character with respect to the payment of compensation, future liabilities and otherwise, subject to which—
 - (a) the navigation authority or railway company shall, if they so elect, carry out the works on behalf of the undertakers; or
 - (b) in default of such election, the undertakers may themselves carry out the works.

If the arbiter should determine that the proposed works are such works as the undertakers are not entitled to execute without consent and that the works would cause injury to the navigation authority or railway company of such a nature as not to admit of being fully compensated by money, the undertakers shall not proceed to execute the works, but in any other case they may execute the works, subject to compliance with such conditions, including the payment of such compensation, as the arbiter may have determined.

- (3) For the purposes of this section, a navigation authority shall be deemed to be concerned with any river, canal, dock, harbour, basin, lock, reservoir, towing path, wharf, quay or land if it belongs to them and forms part of their undertaking or if they have statutory rights of navigating on or using it or of demanding tolls or dues in respect of navigation thereon or the use thereof.
- (4) Nothing in this section shall be construed as limiting the powers of the undertakers under the special Act in respect of the opening and breaking up of streets and bridges.

Copies of special Act to be deposited.

- 46 The undertakers shall, at all times after the expiration of six months from the date on which the special Act was passed or made, keep at their principal office a copy thereof printed by the Queen's printer, [^{F176}or the Queen's Printer for Scotland] and shall also within the said six months deposit such a copy with the sheriff clerk of every sheriff court district and with the [^{F177}local authority for every area] within which they supply, or propose to supply, water or have or propose to construct any waterworks.

Textual Amendments

- F176** Words in [Sch. 4 section 46](#) inserted (1.7.1999) by S.I. 1999/1820 arts. 1(2), 4, Sch. 2, Pt. 1, para. 64; S.I. 1998/3178; art. 2(1)
- F177** Words in [Sch. 4 section 46](#) substituted (1.4.1996) by 1994 c. 39, s. 180(1), [Sch. 13 para. 119\(57\)\(c\)](#); S.I. 1996/323, [art. 4\(1\)\(c\)](#)

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F178 SCHEDULES 5 AND 6.

Textual Amendments

F178 Schs. 5 and 6 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

F179 SCHEDULE 7

Textual Amendments

F179 Sch. 7 repealed (1.4.1996) by [1994 c. 39, s. 180\(1\)\(2\)](#), [Sch. 13 para. 119\(58\)](#), [Sch. 14](#); S.I. 1996/323, art. 4(1)(c)(d), [Sch. 2](#)

F180 SCHEDULE 8

Textual Amendments

F180 Sch. 8 repealed (1.4.1996) by [1994 c. 39, s. 180\(1\)\(2\)](#), [Sch. 13 para. 119\(58\)](#), [Sch. 14](#); S.I. 1996/323, art. 4(1)(c)(d), [Sch. 2](#)

SCHEDULE 9

Section 108.

TRANSITIONAL PROVISIONS AND SAVINGS

- 1 In so far as anything done under an enactment repealed by this Act could have been done under a corresponding provision of this Act it shall not be invalidated by the repeal but shall have effect as if done under that provision.
- 2 Where any period of time specified in an enactment repealed by this Act is current at the commencement of this Act, this Act shall have effect as if the corresponding provision thereof had been in force when that period began to run.
- 3 Any reference in any enactment or document, whether express or implied, to an enactment repealed by this Act shall, unless the context otherwise requires, be construed as a reference to the corresponding enactment in this Act.
- 4 (1) Nothing in this Act shall affect the enactments repealed by this Act in their operation in relation to offences committed before the commencement of this Act.

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- (2) Where an offence, for the continuance of which a penalty may be provided, has been committed under an enactment repealed by this Act, proceedings may be taken under this Act in respect of the continuance of the offence after the commencement of this Act in the same manner as if the offence had been committed under the corresponding provision of this Act.

SCHEDULE 10

Section 112.

AMENDMENT OF ENACTMENTS

F181F181 **PART I**

GENERAL

Textual Amendments

F181 Sch. 10 Pt. I repealed (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 67](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)

F181

PART II

SPECIFIC ENACTMENTS.

Modifications etc. (not altering text)

C19 The text of Sch. 10 Pt. II is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Fire Services Act 1947 (c. 41.)

In section 36(2), for the words “local authority”, “1946” and “Fourth Schedule” there shall be substituted respectively the words “water authority”, “1980” and “Schedule 4”.

Requisitioned Land and War Works Act 1948 (c. 17)

In section 18(3)(c), for the words “section 70”, “Third Schedule” and “1946” there shall be substituted respectively the words “sections 95 and 96”, “Schedule 3” and “1980”.

Prevention of Damage by Pests Act 1949 (c. 55).

In section 7(4), for the words from “55”, to “capacity” there shall be substituted the words “65 to 67 of the Water (Scotland) Act 1980”, and for the words “a local authority” where those

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words last occur in the subsection there shall be substituted the words “ an islands or district council ”.

Rivers (Prevention of Pollution) (Scotland) Act 1951 (c. 66)

In section 35(7), for the words “section fifty of the Water (Scotland) Act 1946” and “said section fifty” there shall be substituted respectively the words “ section 33 of the Water (Scotland) Act 1980 ” and “ said section 33 ”.

In section 35(8), for the words “61 to 63” and “1946” there shall be substituted respectively the words “ 71 to 73 ” and “ 1980 ”.

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

In Schedule 4, for paragraph 3 there shall be substituted the following paragraph—

“ 3. A water authority within the meaning of section 109(1) of the Water (Scotland) Act 1980. ”

Water Officers Compensation Act 1960 (c. 15)

In section 1(1), in paragraphs (e) and (f), for the words “2 or 4”, “1967” and “section 5 of the said Act of 1967” there shall be substituted respectively the words “ 81 ”, “ 1980 ” and “ section 4 or 82 of the said Act of 1980 ”.

F182

Textual Amendments

F182 Sch. 10 Pt. II: entry repealed (27.8.1993) by 1993 c. 12, s. 50, Sch. 6 Pt.I (with ss. 42, 46)

Local Government (Financial Provisions etc.) (Scotland) Act 1962 (c. 9)

In section 3(d), for the word “1946” there shall be substituted the word “ 1980 ”.

Spray Irrigation (Scotland) Act 1964 (c. 90)

In section 1(2), for the word “1946” there shall be substituted the word “ 1980 ”.

Airports Authority Act 1965 (c. 16)

In section 19(5), for the words “1946” and “local water authority” wherever those words occur there shall be substituted respectively the words “ 1980 ” and “ water authority ”.

Gas Act 1965 (c. 36)

In section 15(11)(d), for the word “1946” there shall be substituted the word “ 1980 ”.

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In section 23(5) for the words “Acts 1946 and 1949” there shall be substituted the words “ Act 1980 ”.

In section 28(1)—

- (a) in the definition of “limits of supply”, for the words “5” and “1946” there shall be substituted respectively the words “ 109(1) ” and “ 1980 ”;
- (b) for the definition of “local water authority” there shall be substituted the words—

““local water authority” means a water authority within the meaning of section 109(1) of the Water (Scotland) Act 1980”;
- (c) in the definition of “statutory right to take water” for the words “21” and “1946” there shall be substituted respectively the words “ 17 ” and “ 1980 ”.

In Schedule 3, in paragraph 9(b), for the words “21(1)” and “1946” there shall be substituted respectively the words “ 17(1) ” and “ 1980 ”.

Countryside (Scotland) Act 1967 (c. 86)

In section 63(1), (10) and (11), for the words “1946”, “61(6)”, “62”, “61” and “1967” wherever those words occur there shall be substituted respectively the words “ 1980 ”, “ 72 ”, “ 71 ” and “ 1980 ”.

In section 65(5), for paragraph (f) there shall be substituted the words—

“(f) water authorities within the meaning of section 109(1) of the Water (Scotland) Act 1980;”

and in paragraph (g), for the word “1967” there shall be substituted the word “ 1980 ”.

Sewerage (Scotland) Act 1968 (c. 47)

In section 47, for the words “55”, “56”, “57”, “1946” and “Part III” (wherever those words occur) there shall be substituted the respectively the words “ 65 ”, “ 66 ”, “ 67 ”, “ 1980 ” and “ Part V ”.

Town and Country Planning (Scotland) Act 1972 (c. 52)

In section 88(4), for the words “1946”, “57”, “Part III” and “68” there shall be substituted respectively the words “ 1980 ”, “ 67 ”, “ Part V ” and “ 37 ”.

Control of Pollution Act 1974 (c. 40)

In section 31(2)(b)(i), for the words “50” and “1946” there shall be substituted the words “ 33 ” and “ 1980 ”.

In section 33(7), for the word “1946” there shall be substituted the word “ 1980 ”.

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Local Government (Scotland) Act 1975 (c. 30)

^{F183}In Schedule 6, in paragraph 53(b), for the words “60 or 61” and “1946” there shall be substituted respectively the words “70 or 71 ” and “1980 ”.

Textual Amendments

F183 Entry repealed by [Local Government Finance Act 1988 \(c. 41, SIF 81:1, 103:2\)](#), s. 149, **Sch. 13 Pt. IV**

Airports Authority Act 1975 (c. 78)

In section 19(4), for the word “1946” there shall be substituted the word “1980 ”.

SCHEDULE 11

Section 112.

REPEALS

Modifications etc. (not altering text)

C20 The text of Sch. 11 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.

Chapter	Short Title	Extent of Repeal
9 & 10 Geo.6. c. 42.	The Water (Scotland) Act 1946.	The whole Act
9 & 10 Geo.6. c. 49.	The Acquisition of Land (Authorisation Procedure) Act 1946.	In Schedule 4, the entry relating to the Water (Scotland) Act 1946.
12 & 13 Geo.6. c. 31	The Water (Scotland) Act 1949.	The whole Act.
14 Geo. 6. c. 39.	The Public Utilities Street Works Act 1950.	In Schedule 5, the entry relating to the Water (Scotland) Act 1946.
4 & 5 Eliz. 2. c. 60.	The Valuation and Rating (Scotland) Act 1956.	Section 18.
6 & 7 Eliz. 2. c. 67.	The Water Act 1958.	The whole Act.
7 & 8 Eliz. 2. c. 24.	The Building (Scotland) Act 1959.	In Schedule 9, paragraph 5.
1965 c. 4.	The Science and Technology Act 1965.	In Schedule 2, the entry relating to the Water (Scotland) Act 1946.
1967 c. 78.	The Water (Scotland) Act 1967.	The whole Act except section 4(3) and, in

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		Schedule 2, paragraphs 14, 17 and 18.
1969 c. 48.	The Post Office Act 1969.	In Schedule 4, paragraph 40.
1970 c. 38.	The Building (Scotland) Act 1970.	In Schedule 1, in Part II, paragraph 4.
1973 c. 65.	The Local Government (Scotland) Act 1973.	Section 148(2) to (7) and (9). In Schedule 15, paragraph 27. In Schedule 17, paragraphs 3 to 63. In Schedule 23, paragraph 5(c). In Schedule 25, paragraphs 18 to 23 and 39. In Schedule 27, paragraph 158(b).
1974 c. 40.	The Control of Pollution Act 1974.	In Schedule 2, paragraphs 17 and 18.
1975 c. 30.	The Local Government (Scotland) Act 1975.	In Schedule 6, paragraphs 10, 15, 16, 39 and 56(b).

Changes to legislation:

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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](#)