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*Changes to legislation:* There are currently no known outstanding effects for the Local Government etc. (Scotland) Act 1994, Paragraph 119. (See end of Document for details)

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## SCHEDULE 13

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### *The Water (Scotland) Act 1980 (c.45)*

- 119 (1) The 1980 Act shall be amended in accordance with this paragraph.
- (2) Sections 3 to 5 (water authorities and their areas, alterations of limits of supply and maps of such limits) shall cease to have effect.
- (3) In section 6(3) (questions arising as respects water authority’s duty to provide supply of wholesome water)—
- (a) for “10 or more local government electors in the limits of supply of the water authority” substitute “ any person aggrieved ”; and
  - (b) for “consulting the authority” substitute “ consultation with that person and with the water authority concerned ”.
- (4) In section 9A (prohibition on any charge for water taken to extinguish fires etc.)—
- (a) for the words from the beginning to “49” substitute “ Notwithstanding anything in section 9 ”;
  - (b) the existing words as so amended shall be subsection (1) of the section; and
  - (c) after that subsection add—
- “(2) Subsection (1) above shall not have the effect, where any water is used or made available for any of the purposes mentioned in paragraph (a) or (b) of that subsection, of requiring a reduction in the charges imposed in respect of the provision for other purposes of the supply from which the water is taken.”.
- (5) In section 10 (compensation for damage resulting from exercise of powers)—
- (a) in subsection (1)—
    - (i) for “district council” substitute “ local authority ”; and
    - (ii) the words “or water development board” shall cease to have effect;
  - (b) in subsection (1A)—
    - (i) the words “onto agricultural land or forestry land” and “or as the case may be water development board’s” shall cease to have effect; and
    - (ii) after “communication” insert “ or supply ”;
  - (c) in subsection (3), for “12” substitute “ 24 ”;
  - (d) in subsection (5)(e), for “26 of the said Act of 1950” substitute “ 141 of the said Act of 1991 ”; and
  - (e) subsection (6) shall cease to have effect.
- (6) In section 11 (power of Secretary of State on default of water authority or water development board)—
- (a) in subsection (1)—
    - (i) in paragraph (a), the words “or a water development board”; and
    - (ii) in paragraph (b), the words “or board”;
  - (b) in subsection (2), the words “or board”;
  - (c) in subsection (3), the words “or board” wherever they occur;
  - <sup>F1</sup>(d) .....

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<sup>F1</sup>(e) .....

shall cease to have effect.

(7) In section 13 (supply of water in bulk)—

(a) in subsection (1), the words “or water development board”, in both places where they occur, “or board”, in both places where they occur, and “or area” shall cease to have effect;

<sup>F2</sup>(b) .....

(c) in subsection (3)—

(i) the words “or water development board” and “or area, as the case may be,” shall cease to have effect; and

(ii) for “streets” substitute “ roads ”; and

(d) in subsection (6), the words “or water development board” shall cease to have effect.

(8) Section 15 (power to acquire land), shall cease to have effect.

(9) In section 16 (power to survey land and search for water)—

(a) in subsection (1) the words “or water development board”; and

(b) in each of subsections (2), (3) and (8), the words “or board” wherever they occur,

shall cease to have effect.

(10) In section 17 (acquisition of water rights)—

(a) in subsection (1), the words “or water development board”;

(b) in subsection (2), the words “or water development board” and “or board”;

(c) in subsection (3), the words “or water development board” and, in both places where they occur, “or board”; and

(d) in subsection (4), the words “or water development board”,

shall cease to have effect.

(11) In section 18(1) (compulsory acquisition of land for water works)—

(a) the words “or board”, in both places where they occur, shall cease to have effect; and

<sup>F3</sup>(b) .....

(12) Section 20 (power to hold and dispose of land), shall cease to have effect.

(13) In section 22 (power to break open roads), the words “or water development board” shall cease to have effect.

(14) In section 23 (power to lay mains)—

(a) in subsection (1), the words “or water development board” shall cease to have effect;

(b) in subsection (2), the words “or board” shall cease to have effect;

(c) in subsection (3)—

(i) the words “or water development board” shall cease to have effect; and

(ii) for “street” substitute “ road ”; and

(d) in subsection (4), for “(1)” substitute “ (1)(a) ”.

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- (15) In section 25 (power to provide public wells)—
- (a) in subsection (1)—
    - (i) for “district council” substitute “ local authority ”; and
    - (ii) for “district”, where it secondly occurs, substitute “ area ”; and
  - (b) in subsection (2)—
    - (i) for “An islands or district council” substitute “ A local authority ”;
    - (ii) the words “or district”, where they secondly occur, shall cease to have effect;
    - (iii) after “but” insert “ where the Secretary of State is the roads authority ”;
    - (iv) for “the district council” substitute “ the local authority ”; and
    - (v) for “the roads authority’s” substitute “ his ”.
- (16) In section 26 (power to close, or restrict use of, wells)—
- (a) for “district council” substitute “ local authority ”; and
  - (b) in paragraph (a), for “district” substitute “ area ”.
- (17) In section 27 (power to close, or restrict use of water from, polluted source)—
- (a) in subsection (1)—
    - (i) for “an islands or district council” substitute “ a local authority ”;
    - (ii) the words “or district”, where they secondly occur, shall cease to have effect; and
    - (iii) for “the council” substitute “ they ”; and
  - (b) in subsection (2), for “council” substitute “ local authority ”; and
  - (c) in subsection (3)—
    - (i) for “council”, where that word first occurs, substitute “ local authority ”; and
    - (ii) for “the council”, where those words secondly and thirdly occur, in each case substitute “ them ”.
- (18) In section 28 (water works code)—
- (a) in subsection (1), the words “or a water development board”; and
  - (b) in subsection (2), the words “or water development board”, shall cease to have effect.
- (19) In section 29 (applications of enactments by order)—
- (a) in subsection (2), the words “or water development board”; and
  - (b) in subsection (3), the words “or board”, shall cease to have effect.
- (20) Section 30 (exemption from stamp duty) shall cease to have effect.
- (21) In section 32 (power of water undertakers to supply water to water authorities)—
- (a) in subsection (1)(b), the words “subject to subsection (2),”; and
  - (b) subsection (2), shall cease to have effect.
- (22) In section 33 (temporary discharge of water into watercourses)—

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- (a) in subsection (1), the words “or water development board”, “or their area, as the case may be” and “or board”;
  - (b) in subsection (3), the words “or water development board” in both places where they occur; and
  - (c) in each of subsections (4), (6)(b), (7) to (9) and (11), the words “or board” wherever they occur,
- shall cease to have effect.
- (23) Section 35(4) (charge for water fittings) shall cease to have effect.
- (24) In section 38(1) (entry to premises), the words “or water development board” and, in each of paragraphs (a), (c) and (d), “or board”, shall cease to have effect.
- (25) Sections 40 (non-domestic water rate) and 41 (levy of non-domestic water rate) shall cease to have effect.
- (26) Sections 42 (levy of non-domestic water rate on water works etc.), 43 (levy of non-domestic water rate on shootings and fishings) and 46 (transport hereditaments) shall cease to have effect.
- (27) In section 47 (provision as regards certain pre-existing obligations etc.)—
- (a) for subsection (1) substitute—
    - “(1) Subject to section 41A of this Act, no charge shall be fixed, demanded or recovered for a supply of water to premises to which a water authority were, immediately before 16th May 1949, by virtue of any enactment or agreement, under an obligation to provide such a supply free of charge.”;
  - (b) in subsection (2)—
    - (i) for “leviable in any area specified in the local enactment” substitute “, for a period specified in that enactment, leviable in any area so specified”;
    - (ii) for “specified therein” substitute “ so specified ”; and
    - (iii) for the words from “the non-domestic water rate” to the end of the proviso substitute—
      - “any charge payable in the area in question for a supply of water in any period commencing after 31st March 1996 (the
      - “transfer date” for the purposes of Part II of the Local Government etc. (Scotland) Act 1994 and of this subsection) shall, during the period so specified, bear the same proportion to the charge which (but for this subsection) would be payable for that supply under a charges scheme, as the non-domestic water rate payable there as at the transfer date by virtue of the local enactment and of this subsection (as it had effect on the transfer date) bore to the non-domestic water rate which would otherwise have been payable.”;
  - (c) in subsection (3)—
    - (i) for the words from the beginning to “such a supply” substitute — “ Where, by virtue of any enactment or agreement in force immediately before 16th May 1949, a water authority were under an obligation to provide a supply of water to any premises ”; and
    - (ii) the word “and”, where it first occurs, shall cease to have effect; and

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- (d) for subsection (7) substitute—
  - “(7) Nothing in subsection (1) shall be construed as continuing any exemption, and nothing in subsection (3) as continuing any advantage, where under the enactment or agreement in question the obligation which gives rise to the exemption or advantage ceases to exist.”.
- (28) Sections 48 (levying of, and exemption from, rates) and 49 (payment for supplies by meter) shall cease to have effect.
- (29) In section 54 (register of meter to be evidence)—
  - (a) subsection (2); and
  - (b) in subsection (3)(b), the words from “and in the case” to the end, shall cease to have effect.
- (30) In section 55 (terms and conditions on which water supplied)—
  - (a) in subsection (1), after “conditions” insert “, other than as respects charges, ”; and
  - (b) in subsection (4), after “at the” insert “ principal ”.
- (31) In section 58 (termination of right to supply of water on special terms)—
  - (a) in subsection (3), for the words from “under section 49” to “may be,” substitute “ for a supply of water ”;
  - (b) in subsection (4), for “district council” substitute “ local authority ”;
  - <sup>F4</sup>(c) .....
  - (d) subsection (8) shall cease to have effect.
- (32) Sections 60 (requisitions) and 61 (calculation of amount to be requisitioned) shall cease to have effect.
- (33) In section 63 (provision of water supply to new buildings and houses)—
  - (a) after subsection (1) insert—
    - “(1A) In determining adequacy for the purposes of subsection (1), the local authority shall consult, and have regard to the views of, the water authority within whose limits of supply the building is being erected.”;
  - (b) in subsection (5), after “section,” insert “ except section (1A), ”; and
  - (c) subsection (6) shall cease to have effect.
- (34) Sections 64 to 67 (provisions as respects duty of house owners to provide supply of wholesome water for domestic purposes, execution of works on failure to do so, recovery of expenses of such execution and limitation of liability for such expenses) shall cease to have effect.
- (35) In section 68 (agreements as to drainage)—
  - (a) in subsection (1)—
    - (i) the words “or water development board” and (both in the subsection and its proviso) “or board” shall cease to have effect; and
    - (ii) in paragraph (b), for “regional, islands or district council” substitute “ local authority ”; and
  - (b) subsection (3) shall cease to have effect.

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- (36) In section 69(1) (power to restrict use of hosepipes)—
- (a) for “within the meaning of section 117(1) of the <sup>M1</sup>Road Traffic Act 1960” substitute “ as defined in section 1 of the <sup>M2</sup>Public Passenger Vehicles Act 1981 ”; and
  - (b) for “within the meaning of section 196 of the <sup>M3</sup>Road Traffic Act 1972” substitute “ as defined in section 192(1) of the <sup>M4</sup>Road Traffic Act 1988 ”.
- (37) In section 70 (byelaws for preventing misuse of water)—
- (a) in subsection (1), the words “or water development board”;
  - (b) in subsection (2), the words “or board”;
  - (c) in subsection (4), the words “or water development board”;
  - (d) in the proviso to subsection (4), the words “, or as the case may be the Board,”,
- shall cease to have effect.
- (38) In section 71 (byelaws for preventing pollution of water)—
- (a) in subsection (1), the words “or water development board” shall cease to have effect;
  - (b) in subsection (2), for “authority or board” substitute “ water authority ”;
  - (c) in subsection (3)—
    - (i) for “authority or board” substitute “ water authority ”; and
    - (ii) for “regional, islands or district council”, in both places where those words occur, substitute “ local authority ”;
  - (d) in subsection (4), for “authority or board” and “regional, islands or district council” in each case substitute “ local authority ”;
  - <sup>F5</sup>(e) .....
  - (f) in subsection (6), the words “or boards” shall cease to have effect.
- (39) In section 72(2) (duty to enforce byelaws), the words “and water development board” shall cease to have effect.
- (40) In section 73 (power of Secretary of State to require the making of byelaws)—
- (a) in subsection (1), the words “or water development board” and “or board”;
  - and
  - (b) in each of subsections (2) and (3), the words “or board” wherever they occur, shall cease to have effect.
- (41) In section 76 (acquisition of land for protection of water)—
- (a) in subsection (1)—
    - (i) after “Act” insert “, or of the Local Government etc. (Scotland) Act 1994,”
    - (ii) the words “or water development board” and “or board” shall cease to have effect; and
    - (iii) after “undertaking” insert “ or functions ”;
  - (b) in subsection (2), the words “or water development board” and (wherever they occur, both in the subsection and its proviso) “or board” shall cease to have effect;
  - (c) in subsection (3), the words “or water development board”, “or their area” and “or board” shall cease to have effect; and

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- (d) in the proviso to subsection (3), the words “or board” and “or the area of that board”, shall cease to have effect.
- (42) In section 76F(5) (supplementary regulations in relation to water quality)—
- (a) at the beginning insert “ Without prejudice to subsection (7) below, ”; and
  - (b) after “supplementing the” insert “ foregoing ”.
- (43) In section 76H (effect, confirmation and variation of notice under section 76G)—
- (a) in subsection (5), for the words from “may” to the end substitute—
    - “
    - (a) may, except where the case is one to which paragraph (b) below applies, take that step themselves in accordance with any applicable provision having effect by virtue of section 76I below; and
    - (b) may, in a case to which this paragraph applies, take that step themselves and for that purpose exercise the powers which a water authority may, under this Act, exercise for the purpose of their water undertaking.”;
  - (b) after subsection (5) insert—
    - “(5A) Paragraph (b) of subsection (5) above applies to any case where the local authority are satisfied that the failure arose because the person was unable on reasonable terms to acquire any necessary rights—
    - (a) to take water from a suitable source;
    - (b) to lay pipes through any land not belonging to him; or
    - (c) to do any other work.”; and
  - (c) in subsection (8), the words from “; and section 65” to the end shall cease to have effect.
- (44) In section 76I (incidental powers of local authorities)—
- (a) in subsection (1), for “subsection (5)” substitute “ subsections (5) and (6) ”;
  - (b) in subsection (2), at the beginning insert “Subject to subsection (6) below,”; and
  - (c) after subsection (5) add—
    - “(6) The foregoing provisions of this section do not apply as respects, but are without prejudice to the exercise of, a power conferred by section 76H(5)(b) above.”.
- (45) In section 76J(1) (regulations as to standards of wholesomeness), for “Part” substitute “ Act ”.
- (46) In section 76L(1) (interpretation of Part VIA), the definitions of “local authority” and “wholesome” shall cease to have effect.
- (47) Sections 80 to 92 (provisions as regards water development boards) shall cease to have effect.
- (48) In section 100 (power to make orders), for subsection (2) substitute—

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- “(2) Before making, on his own initiative, an order under section 107, the Secretary of State shall consult all water authorities whose limits of supply would be affected by the order.”.
- (49) In section 103 (requirement for notices to be in writing)—
- (a) for “regional, island or district council” substitute “ local authority ”;
  - (b) the words “or water development board”, in both places where they occur, shall cease to have effect; and
  - (c) for “regional, islands or district council” substitute “ local authority ”.
- (50) In section 104(1) (appeal against decision of sheriff on any application under the Act), after “Act” insert “ (other than an application under section 23(1A)) ”.
- (51) In section 106(4) (recording of awards in arbitration etc.), for “the said Acts” substitute “ this Act ”.
- (52) In section 107 (repeal, amendment and adaptation of local enactments)—
- (a) in subsection (1)(b), the words “or a water development board” and “or board”; and
  - (b) in subsection (5), the words “or a water development board”, shall cease to have effect.
- (53) In section 109 (interpretation)—
- (a) in subsection (1)—
    - (i) the definitions of “the 1992 Act”, “apportionment scheme”, “apportionment note”, “Central Board”, “constituent water authority”, “contributing authority”, “council water charge”, “net annual value” and “part residential subjects” shall cease to have effect;
    - <sup>F6</sup>(ii) .....
    - <sup>F6</sup>(iii) .....
    - (iv) in the definition of “owner”, the words “, save in sections 64 to 67,” shall cease to have effect;
    - <sup>F6</sup>(v) .....
    - (vi) at the end add—
 

““wholesome” and cognate expressions shall be construed subject to the provisions of any regulations made under section 76J”; and
  - (b) in subsection (3), the words “and water development board” shall cease to have effect.
- (54) In Schedule 1 (procedure for making orders and making and confirming bylaws)—
- (a) in paragraph 2—
    - (i) in sub-paragraph (i), for “regional council, district council and water development board” substitute “ and local authority ”; and
    - <sup>F7</sup>(ii) .....
  - (b) in paragraph 3, the words “and the area of the water development board” shall cease to have effect;
  - (c) in paragraph 11—



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- (i) for “regional council, district council and water development board” substitute “ and local authority ”; and
    - (ii) the words “where the river purification authority are not the same authority as the water authority” shall cease to have effect;
  - (d) in paragraph 12, the words “and the area of the board” shall cease to have effect;
  - (e) in paragraph 13, the words “not exceeding 10 pence” shall cease to have effect;
  - (f) in paragraph 14, the words “or board” shall cease to have effect;
  - (g) in paragraph 17, the words “or board” and “or boards” shall cease to have effect;
  - (h) in paragraph 19—
    - (i) the words “or water development board”, in both places where they occur and “or area” shall cease to have effect;
    - (ii) for “regional council, district council and water development board” substitute “ and local authority ”; and
    - <sup>F7</sup>(iii) . . . . .
  - (i) in paragraph 20, the words “or water development board” shall cease to have effect;
  - (j) in paragraph 23, the words “or board” and “or boards” shall cease to have effect;
  - (k) in each of paragraphs 24, 26 and 27, the words “or water development board” shall cease to have effect;
  - (l) in paragraph 25(b), for “council of every region or district” substitute “ local authority for any area ”;
  - (m) in paragraph 30, the words “or water development board” and “or board” shall cease to have effect; and
  - (n) in paragraph 31—
    - (i) for “the proper” substitute “ a duly authorised ”; and
    - (ii) the words “or board”, in both places where they occur, shall cease to have effect.
- (55) In Schedule 2 (orders authorising compulsory acquisition of land), in each of paragraphs 4 and 6, the words “or water development board” wherever they occur shall cease to have effect.
- (56) In Schedule 3 (provisions as to breaking open roads and laying communication and supply pipes)—
- (a) in paragraph 1, the words “and water development board”, “within their limits of supply or area” and from “and outside” to “removing mains” where they secondly occur, shall cease to have effect;
  - (b) in paragraph 2(2), the words “or board”, in both places where they occur, shall cease to have effect;
  - (c) in paragraph 4(1), the words “within their limits of supply” and “within the said limits” shall cease to have effect;
  - (d) in paragraph 5—
    - (i) the words “within the limits of supply” shall cease to have effect; and
    - (ii) for the words “the authority”, where they first occur, substitute “ any water authority ”; and

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- (e) paragraph 8 shall cease to have effect.
- (57) In Schedule 4 (provisions to be incorporated in orders relating to water undertakings)
- (a) in section 24(2)—
- (i) for “regional islands or district council or roads” substitute “ local ”; and
- (ii) at the end add “or, in relation to roads for which the Secretary of State is roads authority, between the Secretary of State and the undertakers”;
- (b) in section 40, for “24” substitute “ 48 ”; and
- (c) in section 46, for “clerk of the local authority of every district” substitute “ local authority for every area ”.
- (58) Schedules 7 (procedure for making certain orders) and 8 (further provisions as regards water development boards) shall cease to have effect.

#### Textual Amendments

- F1** Sch. 13 para. 119(6)(d)(e) repealed (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 23(g)(vii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F2** Sch. 13 para. 119(7)(b) repealed (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 23(g)(vii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F3** Sch. 13 para. 119(11)(b) repealed (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 23(g)(vii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F4** Sch. 13 para. 119(31)(c) repealed (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 23(g)(vii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F5** Sch. 13 para. 119(38)(e) repealed (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 23(g)(vii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F6** Sch. 13 para. 119(53)(a)(ii)(iii)(v) repealed (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 23(g)(vii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F7** Sch. 13 para. 119(54)(a)(ii)(h)(iii) repealed (1.2.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3(7)**

#### Commencement Information

- I1** Sch. 13 para. 119 partly in force; Sch. 13. para. 119 not in force at Royal Assent see s. 184(2); Sch. 13. para. 119(1)(5)(d)(7)(c)(ii)(34)(36)(42)-(45)(51)(53)(a)(iv)(vi) in force and Sch. 13 para. 119(46) in force for specified purposes at 4.1.1995 by S.I. 1994/2850, **art. 3(c)(x)**; Sch. 13 para. 119 (other than sub-paragraphs (54)(a)(ii)(h)(iii)) in force at 1.4.1996 insofar as not already in force by S.I. 1996/323, **art. 4(1)(c)**

#### Marginal Citations

- M1** 1947 c. 41.
- M2** 1981 c. 14.
- M3** 1972 c. 20.
- M4** 1988 c. 52.

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