



Water (Scotland) Act 1980

CHAPTER 45

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Water (Scotland) Act 1980

CHAPTER 45

An Act to consolidate the enactments relating to water in Scotland. [1st August 1980]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

CENTRAL AUTHORITY

1. It shall be the duty of the Secretary of State—

- (a) to promote the conservation of the water resources of Scotland and the provision by water authorities and water development boards of adequate water supplies throughout Scotland; and
- (b) to secure the collection, preparation, publication and dissemination of information and statistics relating to such water resources and water supplies; and
- (c) to appoint an advisory committee to advise him on those matters.

Duty of Secretary of State.

2.—(1) The Secretary of State may require any water authority or water development board to—

- (a) carry out a survey of the existing consumption of and demand for water supplies in their area and of water resources in or available for that area;

Power to require surveys and formulation of proposals.

PART I

- (b) prepare an estimate of the future water supply requirements of that area ;
- (c) formulate proposals for meeting the existing or future water supply requirements of that area, including proposals for the joint use with any other water authority or water development board of any existing or proposed new source of water supply ;
- (d) submit a report on any of those matters to the Secretary of State within such time as he may specify.

(2) For the purposes of this section "area", in relation to a water authority, means their limits of supply within the meaning of section 3(3).

PART II

DUTIES OF WATER AUTHORITIES

Water
authorities.

3.—(1) Subject to subsection (2), the water authority for any area shall be the regional or islands council for that area.

(2) For any area specified in column 1 of the following table the water authority shall be the regional council specified in relation to that area in column 2 of that table.

TABLE

<i>Area</i>	<i>Regional council to whose limits of supply the area in column 1 is added.</i>
1	2
The whole of the former county of Kinross.	Fife
That part of the former counties of Stirling and Dunbarton which on 16th May 1975 lay within both the Strathclyde Region and the region of the former Mid-Scotland Water Board.	Central
That part of the Stirling District and the Central Region situated at Craigmaddie Loch which on 1st April 1977 was transferred to the Strathkelvin District and the Strathclyde Region.	Central

(3) The area within which a water authority are to exercise their functions shall comprise the limits of supply of that authority.

(4) Notwithstanding section 57 (appointment of committees) of the Local Government (Scotland) Act 1973, where—

PART II
1973 c. 65.

(a) a water authority have arranged under section 56 (discharge of functions) of the said Act of 1973 for the discharge of their functions relating to water by a committee, and

(b) the limits of supply of that authority include an added area,

then the members of that committee shall be appointed both by that authority and by the other water authority; and the number of such members to be appointed by each of those authorities shall be such number as may be agreed between them or in default of agreement as the Secretary of State may by order specify.

(5) A member of such a committee who represents the other water authority shall not be entitled to exercise a deliberative vote or to submit a motion or, except with the leave of the committee, to take part in a discussion except in respect of a matter relating solely or, in the opinion of the person presiding at the meeting of the committee, mainly to the exercise of any of the functions of the water authority of whose committee he is a member.

(6) Where the limits of supply of a water authority include an added area but the authority propose to make an arrangement for the discharge of their functions relating to water other than such an arrangement as is referred to in subsection (4)(a), then the proposed arrangement shall require the consent of the Secretary of State, who shall not give such consent unless he is satisfied that the interests of the other water authority will be adequately safeguarded by the proposed arrangement.

(7) In this section—

“added area” means an area specified in column 1 of the table set out at the end of subsection (2) or in that column as amended or extended by an order under section 4;

“the other water authority” means the authority in whose region the added area is situated.

4.—(1) Subject to the provisions of this section, the Secretary of State may at any time by order alter the limits of supply of a water authority.

Alteration
of limits of
supply.

(2) Any order under this section may include such transitional, incidental, supplementary and consequential provisions as the Secretary of State may consider necessary or expedient for the purposes of the order.

PART II

(3) The provisions of Schedule 7 shall have effect in relation to the making of an order under this section.

Maps of
limits of
supply.
1973 c. 65.

5.—(1) The Secretary of State shall, as soon as practicable after the coming into force of the Local Government (Scotland) Act 1973, send to any water authority whose limits of supply include an area specified in column 1 of the table set out in section 3(2) and to any water authority whose limits of supply would include such an area but for the said section 3(2), a map of that area, and shall, as soon as practicable after an order under section 4 relating to the limits of supply of a water authority comes into operation, send to that authority a map of the limits of supply of that authority as altered or, as the case may be, designated by the order.

1967 c. 78.

(2) Any map sent to a water authority under section 6 of the Water (Scotland) Act 1967 or under this section, except a map which has been superseded by a subsequent map so sent, shall be kept at the principal office of the authority; and the authority shall provide reasonable facilities for the inspection of the map by any person wishing to inspect it, and for the taking of copies of, and extracts from, the map.

1868 c. 37

(3) Any map to which subsection (2) applies shall be taken to be a document within the meaning of the Documentary Evidence Act 1868, as applied to the Secretary of State for Scotland.

Duty of
authority to
provide supply.

6.—(1) It shall be the duty of every water authority to provide a supply of wholesome water to every part of their limits of supply where a supply of water is required for domestic purposes and can be provided at a reasonable cost.

(2) Without prejudice to the generality of subsection (1), every water authority shall provide a supply of wholesome water in pipes to every part of their limits of supply where a supply of water is required for domestic purposes and shall take the pipes affording that supply to such point or points as will enable the buildings for which a supply is required for domestic purposes to be connected thereto at a reasonable cost; but this subsection shall not require a water authority to do anything which is not practicable at a reasonable cost or to provide such a supply to any part of their limits of supply where such a supply is already available at such point or points.

(3) If any question arises under this section as to—

- (a) whether a supply of water can be provided at a reasonable cost, or
- (b) whether anything is or is not practicable at a reasonable cost, or

- (c) the point or points to which pipes must be taken in order to enable buildings to be connected therewith at a reasonable cost,

the Secretary of State, if requested to do so by 10 or more local government electors in the limits of supply of the water authority, shall, after consulting the authority, determine that question and the authority shall give effect to his determination.

(4) Every water authority shall also provide a supply of water for the purpose of complying with any other obligation imposed on them by this Act and may, if they think fit, provide a supply to enable them to exercise any of the powers conferred on them by this Act or for any other purpose which they consider is in the interests of the area comprising their limits of supply.

7.—(1) In this Act a supply of water for domestic purposes means a sufficient supply for drinking, washing, cooking, central heating and sanitary purposes but not for any bath having a capacity in excess of 100 gallons, and includes—

Supply of water for domestic purposes.

- (a) a supply for the purposes of any profession carried on in any premises the greater part of which is used as a house ; and
- (b) where the water is drawn from a tap inside a house and no hosepipe or similar apparatus is used, a supply for watering a garden, for horses kept for private use and for washing vehicles kept for private use.

(2) A supply of water under subsection (1) does not include a supply of water for the business of a laundry, or any business of preparing food or beverages for consumption otherwise than on the premises.

(3) “ Domestic purposes ” in any local enactment relating to the supply of water shall be construed in accordance with subsections (1) and (2).

8. Every water authority shall provide in their mains and communication pipes a supply of wholesome water sufficient for the domestic purposes of all owners and occupiers of premises within their limits of supply who are entitled to a supply for those purposes.

Water supplied for domestic purposes to be wholesome.

9.—(1) Subject to the following provisions of this Act, a water authority shall give a supply of water on reasonable terms and conditions for purposes other than domestic purposes to the owner or occupier of any premises within their limits of supply who requests them to give such a supply to those premises.

Supply of water for non-domestic purposes.

PART II

(2) A water authority shall not be required to give a supply of water in accordance with subsection (1) if their ability to meet existing obligations to supply water for any purposes or probable future requirements to supply water for domestic purposes, without having to incur unreasonable expenditure in constructing new waterworks for the purpose, would thereby be endangered.

(3) The water authority may require, as a condition of giving a supply of water under this section, that the person requesting the supply shall enter into an agreement undertaking to pay to them in respect of each year a sum not exceeding one-eighth of the cost of providing and laying the necessary mains (less any amounts received by the authority in respect of water supplied whether for domestic or non-domestic purposes in that year from those mains) until the expiration of a period of 12 years or such lesser period as may appear to the authority to be appropriate.

(4) Any question arising as to the terms and conditions on which water is to be supplied under this section and any question whether the authority are justified in refusing to give a supply shall in default of agreement, be referred to the Secretary of State and the Secretary of State may determine it himself or, if he thinks fit, refer it for determination by arbitration.

(5) Where a water authority are required to give a supply of water under this section, the powers of the authority and of persons supplied or proposed to be supplied by them to lay mains and pipes for providing a supply of water for domestic purposes and to break open streets for that purpose shall apply for the purpose of the provision of a supply under this section.

(6) Charges for water supplied under this section, whether by meter or otherwise, shall be recoverable in the manner in which rates levied by the regional or islands council in respect of the premises supplied are recoverable.

Compensation
for damage
resulting from
exercise of
powers.

10.—(1) Subject to the provisions of this section, a district council or water authority or water development board shall make full compensation to any person who has sustained damage by reason of the exercise by them of any of their powers under this Act in relation to a matter as to which he has not himself been in default.

(2) Any question arising under this section as to the fact of damage or as to the amount of compensation shall, in case of dispute, be determined by arbitration.

(3) A claim for compensation under this section shall not be maintainable unless it is made within 12 months after the date on which it is alleged to have arisen.

(4) The provisions of this section shall be without prejudice to any other provisions in this Act relating to compensation. PART II

11.—(1) If—

(a) a complaint is made to the Secretary of State that a water authority or a water development board have failed—

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

(i) to do anything which they are required to do by or under this Act,

(ii) to give an adequate supply of water either as respects quantity or quality within their limits of supply, or have failed to give any supply which they have been lawfully required to give, or

(iii) to take such steps as are in the circumstances reasonable to obtain new powers or to extend their existing powers for the purpose of remedying any such failure as is mentioned in paragraph (ii), or

(b) the Secretary of State is of opinion that an investigation should be made as to whether any authority or board have failed in any of those matters,

he may cause a local inquiry to be held into the matter.

(2) If after a local inquiry has been held in pursuance of subsection (1), the Secretary of State is satisfied that there has been such a failure on the part of the authority or board in question, he may make an order declaring them to be in default and directing them for the purpose of remedying the default to discharge such of their functions in such manner and within such time or times as may be specified in the order or, as the case may be, to take such steps within such time or times as may be specified in the order to obtain new powers or to extend their existing powers.

(3) If the authority or board declared to be in default by an order made under subsection (2) fail to comply with any requirements of that order within the time specified therein for compliance with that requirement—

(a) the Secretary of State may make an order transferring to another authority or board such of the functions of the authority or board in default as he thinks fit ; or

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

(4) Any expenses incurred by the authority or board to whom functions are transferred by an order under this section (in this

PART II section referred to as “the transferee authority” or “the transferee board”) in discharging those functions shall be defrayed in the first instance by the transferee authority or board in such manner as the order may provide and shall be a debt due by the authority or board in default to the transferee authority or board and recoverable accordingly.

(5) The transferee authority or board shall keep separate accounts of all income and expenditure in respect of the transferred functions.

(6) The authority or board in default shall have the like power of raising the money required to meet the expenses of the transferee authority or board as they have of raising money for defraying expenses incurred directly by themselves, and the payment of any such expenses shall, to such extent as may be sanctioned by the Secretary of State, be a purpose for which the authority or board in default may borrow money in accordance with the statutory provisions relating to borrowing by such authority or board.

(7) An order made under subsection (3) may provide for the transfer to the transferee authority or board of such of the property and liabilities of the authority or board in default as in the opinion of the Secretary of State may be necessary or expedient, and when any such order is revoked the Secretary of State may, either by the revoking order or by a subsequent order, make such provision as appears to him to be desirable with respect to any property or liabilities acquired or incurred by the transferee authority or board in discharging any of the functions to which the order so revoked related.

PART III

POWERS OF WATER AUTHORITIES FOR THE PURPOSES OF WATER SUPPLY

Supply of
water by water
authority to
premises
outside limits
of supply.

12.—(1) A water authority, with the consent of the water authority within whose limits of supply the premises are situated, may give a supply of water to premises situated outside their limits of supply.

(2) Where a water authority are supplying water to premises outside their limits of supply, whether by virtue of subsection (1) or otherwise, the water authority within whose limits of supply those premises are situated may at any time give not less than three months' notice to the authority giving the supply that they are able and intend to give a supply of water to all

the premises in that part of their limits of supply in which the premises in question are situated.

PART III

(3) When, after the expiration of a notice given under subsection (2), the authority in whose limits of supply the premises are situated commence to supply water to the part of their limits of supply in which those premises are situated, the authority previously giving the supply shall, except for the purpose of recovering any charges or expenses recoverable by them, and of removing any pipes, plant or apparatus belonging to them, cease to have any functions in respect of a supply to those premises.

(4) The authority previously giving the supply shall not remove any pipes, plant or apparatus which they are required by the authority in whose limits of supply the premises are situated to leave in position, and any such pipes, plant or apparatus shall vest in the second-mentioned authority.

(5) The authority in whose limits of supply the premises are situated shall pay to the authority previously giving the supply—

(a) such portion of any expenses reasonably incurred by them for the purpose of giving a supply to those premises, and

(b) such sum, in respect of any pipes, plant and apparatus vested in the authority in whose limits of supply the premises are situated, by subsection (4),

as may be agreed, or in default of agreement, determined by arbitration.

13.—(1) A water authority or water development board may enter into an agreement with any other persons, whether a water authority or water development board or not, for the giving by those other persons, and the taking by the authority or board, of a supply of water in bulk for any period and on any terms and conditions, and, where the supply is to be given by persons who are themselves such an authority or board, either within or outside their limits of supply or area as the case may be.

(2) Where it appears to the Secretary of State that it is expedient that a water authority or water development board should give to any other such authority or board, and that that other authority or board should take, a supply of water in bulk, either within or outside the limits of supply or area of the authority or board by whom the supply is to be given, and he is satisfied that the giving and taking of such supply cannot be secured by agreement, he may by order require the respective authorities or boards to give and to take such

PART III supply for such period and on such terms and conditions as may be provided in the order.

(3) For the purpose of laying any pipes or installing any apparatus connected therewith, being pipes or apparatus required for giving or taking a supply of water in pursuance of an agreement or order made under this section, a water authority or water development board may exercise, either within or outside their limits of supply or area, as the case may be, the like powers with respect to laying mains and breaking open streets as are exercisable by them under this Act for the purpose of laying mains, but subject to the like conditions and obligations.

(4) Subject to subsection (5) the provisions of Part II of Schedule 1 shall apply to the making of orders under subsection (2).

(5) If the Secretary of State is satisfied that, by reason of an exceptional shortage of rain or by reason of any accident or other unforeseen circumstances, a serious deficiency in the supply of water exists or is threatened in any locality, the provisions of Part II of Schedule 1 shall not apply to the making of an order under this section, and the Secretary of State may, if he considers that the interests of public health so require, direct that the provisions of this Act with respect to laying mains and breaking open streets and the street works code in the Public Utilities Street Works Act 1950 shall, in relation to any works to be carried out for the purposes of that order, have effect subject to such modifications as he may think necessary for the avoidance of delay, but any agreement or order to which this subsection applies shall cease to have effect at the expiration of such period not exceeding two years as the Secretary of State may direct.

(6) Nothing in this section shall affect any right of a navigation authority under any enactment to prohibit, or impose restrictions on, the supply of water in bulk by a water authority or water development board.

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

14. A water authority may undertake to pay to any person supplying water, or guarantee payment to any such person of, such periodical or other sums as may be agreed as a consideration for the giving by that person of a supply of water, so far as he can lawfully do so, within any part of the limits of supply of the authority, and the execution by him of any works necessary for that purpose.

15.—(1) A water authority or water development board shall have power under this section to acquire land (other than water rights) by agreement, whether by way of purchase, feu, lease, excambion or otherwise, for any of the purposes of their undertaking. PART III
Power to
acquire land.

(2) Without prejudice to the generality of subsection (1), a water authority or water development board may acquire land under that subsection for the purpose of erecting houses on the land for the use of persons employed by them for the purposes of their undertaking.

(3) A water authority or water development board may be authorised by the Secretary of State to purchase land (other than water rights) compulsorily for any of the purposes of their water undertaking or proposed water undertaking.

(4) A water authority or water development board may be authorised by the Secretary of State to purchase compulsorily, or may acquire by agreement, land for giving in exchange for land belonging to the National Trust for Scotland for Places of Historic Interest or Natural Beauty which is inalienable under section 22 of the order confirmed by the National Trust for Scotland Order Confirmation Act 1935, or for any land forming part of a common or open space, which they are authorised under this section to purchase compulsorily. 1935 c. ii.

In this subsection—

- (a) “common” includes any town or village green;
- (b) “open space” means any land laid out as a public garden or used for the purposes of public recreation, and any disused burial ground.

(5) The following enactments are, subject to any necessary adaptations and modifications, incorporated with this section, that is to say—

- (a) the Lands Clauses Acts (except the provisions relating to the acquisition of land otherwise than by agreement, the provisions relating to access to the special Act, sections 93 to 98 and 120 to 125 of the Lands Clauses Consolidation (Scotland) Act 1845); 1845 c. 19.
- (b) section 6 of the Railway Clauses Consolidation (Scotland) Act 1845; and 1845 c. 33.
- (c) Part IV of Schedule 4.

16.—(1) The Secretary of State may, on application made to him by any water authority or water development board who propose to acquire any land for the purposes of their water undertaking or proposed water undertaking, authorise them to survey that land in accordance with the provisions of this section. Powers of
survey and
search for
water on land.

PART III

(2) Notice of any application under subsection (1) shall be given by the authority or board to the owner and the occupier of the land, and the Secretary of State shall, before giving his authority under subsection (1), consider any representations made to him by any such owner or occupier within 14 days after the receipt of the notice.

(3) Where an authority or board are authorised to survey any land under this section, any officer of the authority or board authorised for the purpose shall, on producing if so required some duly authenticated document showing his authority, have a right at all reasonable hours to enter on and survey the land.

(4) Section 38(3) to (7) shall apply to any right of entry conferred by this section.

(5) Admission to any land shall not be demanded in the exercise of any right under subsection (3) unless 24 hours' notice of the intended entry has been given to the occupier; but where such notice has been given on the first occasion on which the right of entry is exercised, no further notice shall be required before entering on the land on a subsequent occasion in connection with the completion of the survey.

(6) The power to survey land under this section shall include power to carry out experimental borings or other works for the purpose of ascertaining the nature of the sub-soil or the presence of underground water therein or the quality or quantity of such water, and to reinstate the land after carrying out any such works.

(7) A person shall not carry out any works authorised by subsection (6) on land which is occupied unless at least seven days' notice of his intention to do so has been given to the occupier of the land; and if the occupier of the land objects to the proposed works on the ground that the carrying out thereof would be seriously detrimental to the carrying on of any undertaking, trade or business carried on by him on that land, the works shall not be carried out except with the authority of the Secretary of State.

(8) If any damage or injury is caused by the escape of water from any land on which works have been carried out in pursuance of this section, not being damage in respect of which compensation is payable under section 10, nothing in this section shall be construed as exonerating the authority or board on whose behalf the works were carried out from any liability in respect of that damage to which they would be subject if the works had been carried out otherwise than in the exercise of statutory powers.

17.—(1) A water authority or water development board may acquire by agreement rights to take water from any stream or other source, but no such agreement shall have effect unless the Secretary of State has made an order approving it. PART III
Acquisition
of water rights.

(2) The Secretary of State may, on the application of a water authority or water development board, by order provide for the compulsory acquisition by them of such rights to take water from any stream or other source as may be specified in the order; and the order may contain such incidental, consequential and supplementary provisions as the Secretary of State thinks necessary or expedient for the purposes of the order, and such provisions may (but without prejudice to the generality of this subsection) include provisions enabling the authority or board to carry on any business or trade ancillary to taking of water; and where such provisions include a provision requiring the payment of compensation, the amount of such compensation shall, in case of dispute, be settled in the manner provided by the Lands Clauses Acts with reference to taking of land otherwise than by agreement.

(3) Where the acquisition of water rights by a water authority or water development board under this Part will result in the impounding of any stream—

- (a) the Secretary of State shall not approve any agreement for the acquisition of such rights unless he is satisfied that the agreement requires the authority or board to provide an adequate amount of compensation water and incorporates the appropriate provisions of Part III of Schedule 4 subject to such modifications and adaptations as he may approve; or
- (b) the Secretary of State shall, in any order for the compulsory acquisition of such rights, prescribe the quantity of compensation water to be provided by the authority or board, and shall incorporate in the order the appropriate provisions of the said Part III subject to such modifications and adaptations as he thinks fit.

(4) Where the acquisition of water rights by a water authority or water development board under this Part will, in the opinion of the Secretary of State, substantially reduce the flow of any stream—

- (a) the Secretary of State shall not approve any agreement for the acquisition of such rights unless he is satisfied that the agreement contains adequate provisions for limiting the extent to which and the circumstances in which water may be taken from the stream; or

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- (b) the Secretary of State shall in any order for the compulsory acquisition of such rights prescribe the extent to which and the circumstances in which water may be taken.

(5) In assessing the quantity of compensation water to be provided under any such agreement or order or in determining the extent to which and the circumstances in which water may be taken under any such agreement or order, the Secretary of State shall have regard to all the circumstances of the particular case, including—

- (a) the interests of public health ;
 - (b) the character and flow of the stream ;
 - (c) the extent to which the stream is or may in the future be used for industrial purposes or for the purposes of any public undertaking or for fisheries, water supply by other undertakers, agriculture, transport and navigation ;
 - (d) the effect on land drainage or on any canal or inland navigation of any alterations in the flow of the stream ;
- and shall secure, so far as practicable, the protection of the rights of riparian owners and of other owners of land or salmon fishings.

(6) The provisions of Part III of Schedule 1 shall apply to the approval of agreements under this section.

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

Compulsory
acquisition
of land for
water works.

18.—(1) Subject to the provisions of this section, an order under section 17 may authorise an authority or board to which that section applies to acquire compulsorily such land as may be necessary for the purposes of the order, being land which an authority or board could be authorised to acquire under section 15.

(2) The provisions of Schedule 2 shall have effect in relation to an order under section 17 which authorises any such acquisition of land.

Transfer of
part of water
undertaking.

19.—(1) Where the Secretary of State, whether on the application of a water authority or a water development board or not, considers that such a transfer would be in the public interest, he may by order authorise the transfer of a part of the undertaking of one authority or board to another.

(2) Where an order is made under subsection (1), the authority or board to which a part of the undertaking of another authority or board is so transferred shall make to that other authority or board such payment by way of consideration as, failing agreement between them, may be settled by arbitration.

(3) An order made under subsection (1) shall provide for the transfer of all rights to take water which are exercised for the purposes of the part of the undertaking transferred by the order and, on the coming into force of that order, those rights shall be transferred to and vest in the authority or board to which the part of the undertaking is transferred.

(4) An order under subsection (1) may for the purposes of the order contain any such provision as an order made under section 82 may contain.

(5) The provisions of Part I of Schedule 1 shall apply to an order made under subsection (1) on the application of an authority or board concerned, and the provisions of Part II of Schedule 1 shall apply to an order so made without any such application.

20. Notwithstanding anything in the Lands Clauses Acts, a water authority or water development board may hold and use for the purposes of their water undertaking for such time as they think fit any land acquired or appropriated by them for such purposes, and may from time to time sell, feu, lease, excamb or otherwise dispose of any such land in such manner, for such consideration and on such terms and conditions as they think fit and, in particular, may reserve to themselves any water rights or other servitudes in, over or belonging to the land disposed of and may dispose of the land subject to such other reservations, conditions, restrictions and provisions with respect to the use of water, the carrying on of noxious trades or the discharge or deposit of manure, sewage or any other foul matter as they think fit:

Provided that, subject to Part II of the Town and Country Planning (Scotland) Act 1959, the consent of the Secretary of State shall be required—

- (a) in the case of any sale or feu, otherwise than by public roup ;
- (b) in the case of any such excambion ;
- (c) in the case of any such let where the let is for a period exceeding 21 years.

21.—(1) For the purpose of providing the whole or part of their limits of supply or their area with a supply of water under this Act, a water authority or water development board

Power to hold and dispose of land.
Power to carry out works.

PART III may, subject to the provisions of this Act and without prejudice to any other powers they may have—

- (a) construct, or alter or acquire by purchase, lease or otherwise, or renew or maintain waterworks ;
- (b) acquire by purchase, lease or otherwise any undertaking belonging to persons, not being a water authority or a water development board, who are supplying or are authorised to supply water in any part of their limits of supply or their area as the case may be ;
- (c) contract with any person for a supply by that person of water in bulk or otherwise ;
- (d) erect and maintain houses for the use of persons employed by them for the purposes of their undertaking ; and
- (e) acquire by purchase, lease or otherwise premises to be used for the purposes of the authority or board and maintain such premises.

(2) Where under this section a water authority or water development board propose to acquire the water undertaking of persons who are supplying or are authorised to supply water outside their limits of supply or their area as the case may be, they shall give notice in writing to every water authority and water development board whose limits of supply or area, as the case may be, lie wholly or partly within the area in which those persons are supplying or are authorised to supply water, and shall not proceed with their proposal unless the consent of each such authority or board has been obtained.

(3) The consent of an authority or board under subsection (2) shall not be unreasonably withheld, and any question whether or not a consent is unreasonably withheld shall be referred to and determined by the Secretary of State.

Power to break open streets.

22. The provisions of Part I of Schedule 3 shall have effect in relation to the breaking open of streets by a water authority or water development board for the purpose of carrying out any works which they are authorised to execute by or under this Act or any local enactment incorporating any provisions of Schedule 4.

Power to lay mains, etc.

23.—(1) A water authority or water development board may for the purposes of their functions lay a main—

- (a) in, under or over any street or under any cellar or vault below any street after giving reasonable notice

to the persons having control or management of the street, and

PART III

- (b) in, on or over any land not forming part of a street, after giving reasonable notice to the owner and the occupier of that land ;

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

(2) Where an authority or board in the exercise of their powers under this section lay a main in, on or over any land not forming part of a street, or inspect, repair, maintain, alter, renew or remove a main laid in or over any such land, they shall from time to time pay compensation to every person interested in that land for any damage done to or injurious affection of that land by reason of the laying, inspection, repair, maintenance, alteration, renewal or removal of the main ; and any question as to the amount of compensation to be paid under this subsection shall, in case of dispute, be determined by arbitration.

(3) A water authority or water development board may erect and maintain in any street notices indicating the position of underground water fittings used for controlling the flow of water through their mains whether laid by virtue of this section or otherwise and may affix such a notice to any house or other building, or any wall or fence.

24.—(1) Where a service pipe is required to be laid for the purpose of supplying water to premises for domestic purposes, the water authority providing the supply shall lay the communication pipe and also so much of the supply pipe as is to be laid in a street.

Communi-
cation and
supply pipes.

(2) The provisions of Part II of Schedule 3 shall apply to all water authorities.

(3) All communication pipes whether laid before or after the commencement of this Act shall vest in the water authority and the authority shall at their own expense carry out any necessary work of maintenance, repair or renewal of such pipes and any work on their mains incidental thereto.

(4) The water authority shall also carry out any such necessary works in the case of so much of any supply pipe as is laid in a street and may recover from the owner of the premises the expenses reasonably incurred by them in so doing, but without

PART III

prejudice to the rights and obligations as between themselves of the owner and the occupier of the premises.

Power of authority to provide public wells.

25.—(1) A district council or a water authority may construct and maintain public pumps, wells, stand-pipes or other works for supplying water for the use of the inhabitants within their district or, as the case may be, their limits of supply.

(2) An islands or district council may erect and maintain or authorise to be erected and maintained in any street or public place within their area or district any drinking fountain or trough; but if the council are not the highway authority in relation to any street no such fountain or trough shall be erected in that street without the consent of the highway authority which consent shall not be unreasonably withheld.

Power to close, or restrict use of, wells.

26. If a district council or a water authority are satisfied that—

- (a) any public well, drinking fountain or other work within their district or, as the case may be, their limits of supply and vested in them or any work constructed under section 25 is no longer required, or
- (b) the water obtained therefrom is so polluted as to be injurious or dangerous to health and that it is not reasonably practicable to remedy the cause of the pollution,

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

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

27.—(1) If an islands or district council are of opinion that the water in or obtained from any source of supply not vested in them, being water which is or is likely to be used within their area or district for domestic purposes or in the preparation of food or drink for human consumption, is or is likely to become so polluted as to be injurious or dangerous to health, the council may apply to the sheriff who, after giving the person to whom the source of supply belongs and any other person alleged to have control of the source of supply an opportunity of being heard, may make—

- (a) an order directing the source of supply to be permanently or temporarily closed or cut off, or
- (b) an order directing the water from the source of supply to be used for certain purposes only, or

(c) such other order as appears to him to be necessary to prevent injury or danger to the health of persons using the water or consuming food or drink prepared with or from the water.

(2) The sheriff shall hear any person using the water who claims to be heard and may cause the water to be analysed and examined at the cost of the council.

(3) If a person on whom an order is made under this section fails to comply with it the sheriff may, on the application of the council, authorise the council to do whatever may be necessary for giving effect to the order, and any expenses reasonably incurred by the council in so doing may be recovered by them from the person in default.

28.—(1) For the purpose of enabling a water authority or a water development board to supply water under this Part the following provisions of Schedule 4 shall, subject to any necessary modifications, apply to this Part, that is to say—

Water works code.

(a) section 5 of Part II ;

(b) Part V ;

(c) Part VII ;

(d) Part VIII ; and

(e) sections 40, 41 and 45 of Part IX.

(2) For the purposes of construction of any reservoir, filter or distribution tank or works connected therewith, sections 25 to 37 of the Railways Clauses Consolidation (Scotland) Act 1845 (which relate to the temporary occupation of lands near the railway during its construction) shall apply to this Part subject to the modifications that for references to the company, to the railway and to the centre of the railway there shall be substituted respectively references to the water authority or water development board, to the reservoir, filter, distribution tank or works and to the boundaries of the reservoir, filter, distribution tank or works, and for any reference to a justice or justices there shall be substituted a reference to the sheriff, and the prescribed limits shall be 200 yards from such boundaries.

1845 c. 33.

29.—(1) The Secretary of State may by any order under section 13 or 17 apply to any water undertaking to which the order relates such of the provisions contained in Schedule 4 as appear to him to be appropriate, subject to such modifications and adaptations as may be specified in the order.

Application of enactments by order.

PART III

(2) The Secretary of State may at any time by order apply the provisions of Schedule 4 or any of them to the undertaking of any water authority or water development board, subject to such modifications and adaptations as may be specified in the order, and may by the order repeal any provision previously applicable to the undertaking to the extent to which it appears to him, having regard to the provisions of this Act which apply or are applied by the order to the undertaking, to be no longer required, or amend any provision previously applicable to the undertaking to any extent which appears to him necessary to bring it into conformity with the said provisions of this Act.

(3) The provisions of Part I of Schedule 1 shall apply to an order made under subsection (2) on the application of the authority or board concerned, and the provisions of Part II of that Schedule shall apply to an order so made without any such application.

Exemption
from stamp
duty.

30.—Any conveyance, lease, standard security, mortgage, assignation, agreement, receipt or other document granted or made for any of the purposes of this Act by to or in favour of a water authority or water development board shall be exempt from all stamp duties.

Consultation
with
authorities in
England.

31.—(1) Where the limits of supply of a water authority adjoin any part of England and it appears to that water authority that there may be water in watercourses or underground strata in that part of England, or in the limits of supply, which could be transferred from that part of England to the limits of supply, or from the limits of supply to that part of England, as the case may be, the water authority shall, insofar as they consider it appropriate to do so, consult with the water authorities and other appropriate authorities in that part of England with a view to securing the best use of that water in the public interest.

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

Power of water
undertakers to
supply water to
water
authorities.

32.—(1) Any person supplying water, whether under statutory powers or not, may—

- (a) contract to supply water to a water authority ; or
- (b) subject to subsection (2), sell or lease to a water authority all or any of his waterworks and all his rights, powers and privileges attaching thereto but subject to all liabilities attaching thereto.

(2) A sale by a company under subsection (1) must be authorised by special resolution of the members passed in the manner provided in Part IV of the Companies Act 1948 if the company is a company within the meaning of that Act, and if the company is not such a company, by resolution passed by three-fourths in number and value of the members present, either personally or by proxy at a meeting specially convened for the purpose with a notice of the business to be transacted.

PART III

1948 c. 38.

33.—(1) Subject to this section a water authority or water development board who are carrying out or are about to carry out the construction, alteration, repair, cleaning or examination of any reservoir, well or borehole, line of pipes or other work forming part of their undertaking may cause the water therein to be discharged into any available watercourse, and for that purpose may lay and maintain in any street or in any land not forming part of a street, whether within or outside their limits of supply or their area, as the case may be, all necessary discharge pipes and apparatus; and such statutory provisions with respect to the breaking open of streets as are applicable to the authority or board shall, with any necessary modifications and adaptations, apply accordingly.

Temporary discharge of water into watercourses.

(2) The power conferred by subsection (1) to lay and maintain discharge pipes and apparatus in land, other than land forming part of a street, shall not be exercised unless reasonable notice has been given to the owner and the occupier of that land.

(3) Except in a case of emergency and except insofar as may be otherwise agreed in writing between the water authority or water development board and the authority or board concerned, the water authority or water development board shall—

- (a) not less than seven days before commencing to discharge any such water through a pipe exceeding nine inches in diameter, give notice of their intentions to the fishery district board of any fishery district within which any watercourse into which the water is to be discharged is situated;
- (b) have due regard to any representations which may be made to them as to the time, mode and rate of discharge with a view to avoiding or minimising injury or inconvenience therefrom; and
- (c) where the water is to be discharged into any river, canal or other inland navigation in respect of which a navigation authority exercise functions, not discharge the water without the written approval of the navigation authority, or except at such times as that authority may approve and in a manner approved by them as not

PART III

likely to injure the river, canal or navigation or the banks thereof, or interfere with traffic thereon.

(4) Whenever the authority or board propose to discharge water on a number of occasions during a period, the giving by them of a general notice to that effect, accompanied by such particulars as it is reasonably practicable for them to give, shall constitute sufficient compliance by them with the provisions of subsection (3)(a).

(5) In the case of a river, subsection (3)(c) shall not apply if the point of discharge into the river is more than three miles above the limits within which the navigation authority exercise jurisdiction.

(6) An approval under subsection (3)(c)—

(a) shall not be withheld unreasonably, and any question whether it is withheld unreasonably or not shall be determined by the Secretary of State;

(b) shall be deemed to have been given unless notice of disapproval is given to the authority or board within seven days after the making of the application for the approval.

(7) If the authority or board are requested by—

(a) the owner or occupier of any land which abuts on a watercourse at a point within three miles of any work of the authority or board from which water may be discharged into that watercourse under this section, or

(b) the clerk to any association of mill owners any of whose constituent members is such an owner or occupier, or

(c) the owner or occupier of a salmon fishing on a watercourse at such a point if such watercourse is within a fishery district for which no fishery district board has been constituted,

to register him for the purposes of this section, the authority or board shall enter his name and address in a register kept by them for the purpose and, so long as his name and address appear in the register, shall, except in a case of emergency and except insofar as may be otherwise agreed with him in writing, and unless the point at which the water is to be discharged is situated downstream of the land in respect of which he is so registered, send to him in respect of that watercourse the like notices as they are (in the absence of any emergency or agreement to the contrary) required under subsection (3)(a) to send to a fishery district board.

(8) Except insofar as may be otherwise agreed in writing, where the authority or board discharge water during an emergency, they shall forthwith give to the boards, authorities and persons registered under subsection (7) notice of such discharge and such further particulars relating to it as may reasonably be required.

(9) The authority or board shall take all necessary steps to secure that any water discharged by them under the provisions of this section shall be as free as reasonably practicable from mud and silt, from solid, polluting, offensive or injurious matter and from any matter prejudicial to fish or spawn or to spawning beds or food of fish.

(10) A power conferred by this section shall not be exercised so as to damage or injuriously affect any works or other property of a railway company or navigation authority or so as to flood or damage any highway.

(11) In the exercise of the powers conferred by this section the authority or board shall do as little damage as possible and shall pay compensation to all persons for any damage sustained by them or liability to which they may become subject by reason of the exercise of those powers; and for the purposes of this subsection any extra expenditure which it becomes reasonably necessary for any public authority to incur for the purpose of properly discharging their statutory functions shall be deemed to be damage sustained by them.

(12) Any question as to the amount of the compensation to be paid under subsection (11) shall in case of dispute be determined by arbitration.

34. Any person supplying water within the limits of supply of a water authority shall furnish such supply to that authority as they may require and as it is reasonably practicable for that person to provide, and that on such terms and conditions as may be agreed between him and the authority; and, if they fail to agree, the amount of the supply and the terms and conditions of the supply shall be determined by the Secretary of State or, if he thinks fit, referred for determination to an arbiter appointed by him.

Persons supplying water to supply to authority.

35.—(1) A water authority may, on the request of any person to whom they supply or propose to supply water, supply to him by way either of sale or hire any such water fittings as are required or allowed by their byelaws and may, on such request, install, repair or alter (but not manufacture) any such water fittings, whether supplied by them or not, and may provide any

Power to supply water fittings.

PART III

materials and do any work required in connection with such installation, repair or alteration of water fittings.

The authority may make such charges as may be agreed, or in default of agreement as may be reasonable, for any fittings supplied, or any materials provided or work done under this subsection, and may recover such charges.

(2) If any fittings let for hire by the authority bear either a distinguishing plate affixed thereto, or a distinguishing brand or other mark conspicuously impressed or made thereon, sufficiently indicating the authority as the actual owners of the fittings, those fittings—

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

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

(4) The authority shall so adjust the charges to be made by them under this section as to meet any expenditure by them thereunder, including interest upon any moneys borrowed for the purposes thereof and any sums carried to a sinking fund or otherwise required for repayment of moneys so borrowed, and the total sums expended and received by the authority in connection with the purposes of this section in each year, including interest and any sums carried to a sinking fund or otherwise required for repayment of moneys borrowed, shall be separately shown in the published accounts of the authority for that year.

(5) If any person wilfully or negligently injures or suffers to be injured any water fitting belonging to the authority, he shall be liable on summary conviction to a fine not exceeding £25 and the authority may do all such work as is necessary for repairing any injury done and may recover the expenses reasonably incurred by them in so doing from the offender.

Power to
execute work
on behalf of
owner or
occupier.

36. A water authority may by agreement with the owner or occupier of any premises execute at his expense any work in connection with the laying, maintenance, repair, alteration, renewal or removal of any water pipe, cock or meter which he is required or entitled to execute by or under this Act or any local enactment incorporating any provisions of Schedule 4,

and for that purpose shall have all such rights as he has and may provide necessary materials. PART III

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

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

38.—(1) Subject to the provisions of this section, an authorised officer of a water authority or water development board shall, on producing if so required some duly authenticated document showing his authority, have a right to enter any premises at all reasonable hours—

Entry of premises.

- (a) for the purpose of inspecting and examining meters used by the authority or board for measuring the water supplied by them and of ascertaining therefrom the quantity of water consumed ;
- (b) for the purpose of ascertaining whether there is or has been on or in connection with the premises any contravention of the provisions of this Act or of any byelaws made thereunder ;
- (c) for the purpose of ascertaining whether or not circumstances exist which would authorise the authority or board to take any action or execute any work under this Act or any such byelaws ;
- (d) for the purpose of taking any action or executing any work authorised or required by this Act or any such byelaws to be taken or executed by the authority or board.

(2) Admission to any premises, not being a factory within the meaning of the Factories Act 1961 or a place in which persons are employed otherwise than in domestic service, shall not be demanded as of right unless 24 hours' notice of the intended entry has been given to the occupier. 1961 c. 34.

(3) If it is shown to the satisfaction of the sheriff, or a justice having jurisdiction in the place, on a sworn information in writing—

- (a) that admission to any premises which any person is entitled to enter by virtue of such a right of entry has been refused to that person, or that refusal is apprehended, or that the premises are unoccupied, or the occupier is temporarily absent, or that the case is one

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of urgency, or that the application for admission would defeat the object of the entry ; and

- (b) that there is reasonable ground for entry into the premises for any purpose for which the right of entry is exercisable ;

the sheriff or justice may by warrant under his hand authorise that person to enter the premises if need be by force :

Provided that such a warrant shall not be issued unless the sheriff or justice is satisfied either that notice of intention to apply for a warrant has been given to the occupier, or that the premises are unoccupied, or that the occupier is temporarily absent, or that the case is one of urgency, or that the giving of such notice would defeat the object of the entry.

(4) Any person entitled to enter any premises by virtue of such a right of entry, or of a warrant issued under this section, may take with him such other persons as may be necessary, and on leaving any unoccupied premises which he has entered by virtue of such a warrant shall leave them as effectually secured against trespassers as he found them.

(5) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.

(6) If any person who, in compliance with any of the provisions of this Act or with a warrant issued thereunder, is admitted into any premises makes use of or discloses to any person any information obtained by him there with regard to any manufacturing process or trade secret, he shall, unless such use or disclosure was made in the performance of his duty, be liable in respect of each offence—

- (a) on summary conviction, to a fine not exceeding £50 or to imprisonment for a term not exceeding three months or to both such fine and imprisonment ;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(7) Any person who wilfully obstructs any person upon whom a right of entry has been conferred by any of the provisions of this Act or by a warrant issued under this section shall in respect of each offence be liable on summary conviction to a fine not exceeding £25.

(8) This section, except subsection (6), shall not apply to any right conferred by section 93.

PART IV

FINANCE

39.—(1) Subject to the provisions of this Part, the expenditure incurred by a council of a region or islands area in meeting any requisition under Part IV or VIII and in the exercise of any of their functions under any enactment in relation to water supply in their region or area shall, in so far as not otherwise met, be defrayed as to such portion thereof as may be determined under section 44 out of the regional rate or the general rate, as the case may be, and as to the remainder out of a rate to be levied as hereafter in this Act provided.

Levy of rates in respect of expenditure on water supply.

(2) The portion of the regional rate or of the general rate levied under the foregoing subsection is hereafter in this Act referred to as “the public water rate”.

(3) For the purpose of defraying the remainder of the expenditure mentioned in subsection (1), the council of a region or islands area shall, subject to the provisions of this Part, levy annually within their region or area a rate (hereafter in this Act referred to as “the domestic water rate”) which, notwithstanding anything in any other enactment, shall be levied as a separate rate.

40.—(1) Subject to the provisions of this Part, the domestic water rate shall be levied by the council of a region or islands area in respect of all lands and heritages within their region or area according to the net annual value of such lands and heritages.

Provisions as to liability for domestic water rate.

(2) The domestic water rate shall not be leviable in respect of any premises to which water is supplied wholly by meter or which are occupied by a water authority for the purposes of a water undertaking or by a water development board.

(3) The domestic water rate shall not be leviable in respect of any premises, being lands and heritages situated within the region or area of a council of a region or islands area, unless—

(a) in the case of a dwelling house, a sufficient supply of wholesome water provided by a water authority for domestic purposes is provided in pipes within the house or within the premises in which the house is comprised ;

(b) in the case of any other premises, a supply of water provided by a water authority is used for any purpose for or in connection with which the premises are used or by or for persons employed or otherwise engaged on or about the premises in connection with such purpose.

PART IV

(4) Where premises are for the first time provided with a supply of water otherwise than on the first day of a rating year, the occupier of the premises shall be liable to pay in respect of that year such part only of the domestic water rate which would be leviable if a supply had been provided throughout that year as is proportionate to the part of that year which had not elapsed when the supply was provided.

(5) Notwithstanding the foregoing provisions of this section, the domestic water rate shall not be leviable in respect of—

1975 c. 30.

(a) the lands and heritages specified in paragraphs 2(1)(b) and (c), 3, 4 and 5 (rail, gas, electricity and postal undertakings) of Schedule 1 to the Local Government (Scotland) Act 1975 ; and

(b) any such lands and heritages specified in paragraph 8 (dock and harbour undertakings) of Schedule 1 to the said Act of 1975 as have their rateable values determined under any order made under sections 6 and 35(3) of that Act.

Levy of domestic water rate on business and commercial premises.

1973 c. 65.

41.—(1) Where the domestic water rate is leviable in respect of lands and heritages being premises to which this section applies, it shall be levied according to one-half of the net annual value thereof:

Provided that if the water authority providing a supply of water to the premises so resolve not later than such date in any year as may be prescribed by regulations made by the Secretary of State under section 111 of the Local Government (Scotland) Act 1973 with respect to any particular premises such as aforesaid this subsection shall have effect in that year in relation to those premises with the substitution for one-half of such other fraction, not exceeding one-half and not less than one-quarter, as may be specified in the resolution.

(2) Where a supply of water is provided to any premises to which this section applies and which are entered in the valuation roll at a net annual value exceeding such amount as the water authority providing a supply of water to the premises may from time to time determine, the occupier thereof shall have the option of taking the supply by meter.

(3) Where the domestic water rate is leviable in respect of lands and heritages being premises to which this section applies and which are occupied partly as a dwelling house, the domestic water rate shall be levied on the part occupied as a dwelling house according to the net annual value (ascertained as hereafter in this Act provided) of that part, and on the remainder of the premises in accordance with the provisions of this section.

PART IV

(4) This section applies to lands and heritages being premises occupied wholly or partly as a shop, offices, a warehouse, factory, cinematograph theatre, theatre, town hall, dance hall or concert hall, and such other premises not being premises occupied wholly as a dwelling house or such premises as are mentioned in section 42 or 43 as the water authority providing a supply of water to the premises may from time to time resolve.

42. Where the domestic water rate is leviable in respect of premises being lands and heritages occupied as waterworks or sewage works, or as a mine or a quarry, or as a public park or recreation ground, it shall be levied according to one-quarter of the net annual value thereof.

Levy of domestic water rate on certain public utility undertakings, mines, parks, etc.

43. Where the domestic water rate is leviable in respect of premises being lands and heritages occupied as shootings or as fishings it shall be levied according to one-eighth of the net annual value thereof.

Levy of domestic water rate on shootings and fishings.

44. In any year a council of a region or islands area may defray, out of the regional or, as the case may be, the general rate, such part, as they think fit, of the expenditure incurred by them in meeting any requisition under Part IV or VIII or in performing any of their functions under any enactment in relation to water supply in their region or area in so far as not otherwise met, to an amount which, unless the Secretary of State otherwise approves, shall not exceed one-third of the said expenditure.

Contributions by council in aid of domestic water rate.

45.—(1) For the purposes of section 41(3) the net annual value of the premises shall be apportioned by the assessor between the part thereof occupied as a dwelling house and the remainder of the premises, and the net annual value of such part and of such remainder shall be shown separately in the valuation roll.

Provisions as to valuation roll.

(2) The provisions of the Lands Valuation (Scotland) Act 1854 (including, without prejudice to the foregoing generality, the provisions with respect to notices to persons whose property is valued and with respect to appeals) shall apply with regard to any particular required by any provision of this section to be shown in the valuation roll in like manner as those provisions apply with regard to the particulars required by any other enactment to be so shown.

1854 c. 91.

(3) For the purpose of enabling the assessor to effect any apportionment required to be effected by him under this section the water authority shall furnish him with such information as to the premises in their limits of supply supplied with water and as to such other matters as he may reasonably require for that purpose.

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 Transport
 hereditaments.
 1966 c. 51.
 1948 c. 26.

46.—(1) Without prejudice to the provisions contained in section 17(4C) (payments in lieu of rates) of the Local Government (Scotland) Act 1966, it is hereby declared that nothing in the foregoing provisions of this Part affects the exemption from liability to be rated or to be included in any valuation roll or in any rate conferred by Part V of the Local Government Act 1948 on premises being a railway or canal hereditament.

(2) Subject to the said section 17(4C), where a water rate was in the year 1947-48 levied in respect of premises being a railway or canal hereditament and no charge calculated by reference to the amount of water consumed was made, no charge by way of meter or otherwise shall be made in any subsequent year during which the premises are occupied as such a hereditament in respect of a supply of water (whether for domestic purposes or otherwise) to those premises by a water authority.

(3) Subject to the said section 17 (4C), where no payment by way of water rate was made in the year 1947-48 in respect of any such premises as aforesaid, or where in that year a charge calculated in accordance with the amount of water consumed was made in respect of a supply of water to such premises (whether a water rate was levied in addition to such charge or not), the water authority shall be entitled to make in any subsequent year in respect of any supply of water to those premises a charge calculated by reference to the amount of water consumed thereon.

(4) In this section the expression “railway or canal hereditament” has the meaning assigned to it by the Local Government Act 1948 for the purposes of Part V of that Act; and the expression “1947-48” has the meaning assigned to it by Part VIII of that Act.

Domestic
 water rate in
 certain cases.

47.—(1) Notwithstanding anything in the foregoing provisions of this Part, no domestic water rate shall be payable in respect of any premises to which a water authority were immediately before 16th May 1949 by virtue of any enactment or agreement under an obligation to provide a supply of water free of charge, and no charge or other payment shall be required by the authority to be made in respect of that supply.

(2) Where by virtue of any local enactment in force immediately before 16th May 1949 the domestic water rate was leviable in any area specified in the local enactment at an amount per pound determined by the local enactment (whether as an amount per pound specified therein or as an amount per pound being a proportion so specified of the amount per pound at which the domestic water rate would otherwise be payable, or otherwise), the domestic water rate shall during such period as

is specified in the local enactment be payable in that area at the amount per pound so specified:

Provided that if in any year during the said period the domestic water rate levied generally in respect of lands and heritages within the region or islands area is lower than the rate falling to be levied for that year in accordance with the foregoing provisions of this subsection, the rate to be levied in such area as aforesaid shall not exceed the amount of the rate levied generally within the region or islands area.

(3) Notwithstanding anything in the foregoing provisions of this Part, no domestic water rate shall be payable in respect of the provision of a supply of water to any premises to which a water authority were, by virtue of any enactment or agreement in force immediately before 16th May 1949, under an obligation to provide such a supply on terms more favourable to the person having the vested interest in the obligation than those which, apart from the obligation, would have been applicable under the enactments in force immediately before that date relating to the supply of water by the authority in the limits of supply in which the premises are situated, and the supply shall continue to be provided on the following, and no other, terms, that is to say—

- (a) where immediately before 16th May 1949 there was leviable under such an enactment a rate other than a public water rate, on such terms as may be agreed between the authority and the person having the vested interest in the obligation;
- (b) in any other case on the terms on which immediately before that date it was provided under the enactment or agreement.

(4) In determining for the purposes of the foregoing provisions of this section whether a supply of water provided under any enactment or agreement in force immediately before 16th May 1949 was provided free of charge or was such a supply as is mentioned in subsection (3), or in determining the sum which by virtue of that subsection is to be paid in respect of such a supply, no account shall be taken of any public water rate levied under any such enactment in respect of the premises so supplied or of any undertaking (other than an undertaking to pay a rate or a charge) entered into by the person having the vested interest in the obligation in consideration of which the supply was provided.

(5) Any question arising under this section whether a water authority are required to provide a supply of water free of charge, or whether a supply is such a supply as is mentioned in subsection (3), or as to the terms on which a supply was provided immediately before 16th May 1949, or on which by

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virtue of this section a supply is to continue to be provided or otherwise, shall, in default of agreement, be referred to the Secretary of State, and the Secretary of State may determine it himself or, if he thinks fit, may refer it for determination by arbitration.

(6) In this section the expression “ public water rate ” means in relation to any supply any rate called the public water rate in the local enactment by virtue of which the supply is provided on special terms.

(7) Nothing in the provisions of subsection (1) or (3) shall be construed as continuing any exemption conferred by either of these subsections from the payment in whole or in part of domestic water rate, where the water authority have ceased to be under the obligation which gave rise to that exemption.

Levying of, and
exemptions
from, rates.

1947 c. 43.

1973 c. 65.

1975 c. 30.

48.—(1) The provisions of Part XI of the Local Government (Scotland) Act 1947 (which relate to the levy and collection of rates and to requisitions), Part VII of the Local Government (Scotland) Act 1973 and sections 7 to 10 of the Local Government (Scotland) Act 1975 shall, in their application to the public water rate and the domestic water rate levied under this Part, have effect subject to such adaptations and modifications as may be prescribed.

(2) The amount of the annual value of any lands and heritages according to which the domestic water rate is leviable in accordance with the foregoing provisions of this Part shall, if it includes a fraction of a pound, be increased or reduced as the case may be, to the nearest complete pound or, if the fraction is 50 pence, the fraction shall be disregarded.

1949 c. 31.

(3) Nothing in this Part shall affect the total exemption from any rates conferred in respect of any lands and heritages by or under any enactment in force at the passing of the Water (Scotland) Act 1949.

Payment for
supplies by
meter.

49.—(1) Where water is supplied by meter by a water authority, the charge in respect of the supply shall be calculated by reference to the amount of water consumed on the premises, but there may, in respect of that supply, be a fixed minimum charge of such amount as from time to time may be determined by the water authority.

(2) Charges payable under this section, including charges for any meter supplied by the authority, shall be recoverable in the manner in which rates levied by the regional or islands council in respect of the premises supplied are recoverable.

- 50.** A water authority shall not be bound to supply with water otherwise than by meter—
- PART IV
Power to require supply by meter.
- (a) any premises whereof part is used as a dwelling house and part for any business, trade or manufacturing purpose for which water is required ;
 - (b) any public institution, hospital, asylum, nursing home, sanatorium, school, club, hostel, camp, assembly hall, place of public entertainment, hotel or restaurant or any licensed premises for which a licence is required under the Licensing (Scotland) Act 1976 ;
 - (c) any boarding-house capable of accommodating 12 or more persons, including the persons usually resident therein ; or
 - (d) any premises which are used solely for business, trade or manufacturing purposes and in which a supply of water for domestic purposes only is required.
- 1976 c. 66.

- 51.** Where a person who takes a supply of water for domestic purposes from a water authority otherwise than by meter desires to use any of the water so supplied—
- Power to require supplies for refrigerating apparatus, etc., to be taken by meter.
- (a) for operating a water-cooled or refrigerating apparatus ;
 - (b) for operating any apparatus depending while in use upon a supply of continuously running water, not being an apparatus used solely for heating the water ; or
 - (c) for cleaning, regenerating or supplying motive power to an apparatus used for softening water,

the authority may require that all water so supplied shall be taken by meter.

- 52.** Where water which a water authority supply for domestic purposes is used by means of a hosepipe or similar apparatus for watering a garden or for horses, washing vehicles or other purposes in stables, garages or other premises where horses or vehicles are kept, the authority may require that all water so supplied shall be taken by meter.
- Power to require supply for hose pipe to be taken by meter.

- 53.**—(1) No person shall be entitled to demand or to continue to receive from a water authority a supply of water to any habitation to which this subsection applies unless he has—
- Provisions as to supply to tents, vans, sheds, etc.
- (a) agreed with the authority to take a supply of water by meter and to pay to them such minimum annual sum as will give them a reasonable return on the capital expenditure incurred by them in providing the required supply and will cover other standing charges incurred by them in order to meet the possible maximum demand for his habitation, and will yield a reasonable return on the cost of the water supplied ; and

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- (b) secured to the reasonable satisfaction of the authority by way of deposit or otherwise, payment of such a sum as may be reasonable having regard to his possible maximum demand for water.

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

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

(3) Where a supply of water is provided by a water authority for domestic purposes for any house or habitation (not being a habitation to which subsection (1) applies) which is not entered in the valuation roll, the occupier thereof shall pay to the authority in respect of such supply such annual sum (not being less than 75p) as may be reasonable having regard to his possible maximum demand for water.

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

Register of meter to be evidence.

54.—(1) Where a water authority supply water by meter, the register of the meter shall be prima facie evidence of the quantity of water supplied.

(2) Any question arising between the authority and a consumer with respect to the quantity of water supplied may, on the application of either party, be determined by the sheriff.

(3) If the meter on being tested is proved to register incorrectly to any degree exceeding five per cent—

- (a) the meter shall be deemed to have registered incorrectly to that degree since the last occasion but one before the date of the test on which a reading of the index of the meter was taken by the authority, unless it is proved to have begun to register incorrectly on some later date; and
- (b) the amount of any refund to be made to, or of any extra payment to be made by, the consumer shall be paid or allowed by the authority or paid by the consumer, as the case may be, and in the case of an extra payment shall be recoverable in the manner in which rates levied by the regional or islands council in respect of the premises supplied are recoverable.

55.—(1) Every water authority shall prepare and maintain a schedule of the terms and conditions on which they are prepared in general to give a supply of water by meter or otherwise, and that schedule shall be published in such manner as in the opinion of the authority will secure adequate publicity for it.

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Charges for
water supplied
by meter.

(2) Nothing in the foregoing subsection shall be construed as prejudicing the rights or duties under section 9 of a water authority or of any person supplied or proposed to be supplied by them under that section.

(3) Every water authority shall keep a register in which they shall enter particulars of every agreement entered into by them for the giving of a supply of water for purposes other than domestic purposes to any person on terms and conditions other than the terms and conditions for the time being set forth in the schedule maintained by them under subsection (1).

(4) The register kept under subsection (3) shall be kept at the office of the authority and shall be open at all reasonable hours to the inspection of all ratepayers within the limits of supply of the authority without payment of any fee.

56.—(1) Where a supply of water for purposes other than domestic purposes is provided for premises being agricultural lands and heritages, the water authority shall require the supply to be taken either by meter or on other specified terms as they may from time to time in their discretion determine.

Provisions as
to supply of
water to
agricultural
subjects.

(2) Where a water authority supply water by meter for purposes other than domestic purposes to any premises being agricultural lands and heritages and also supply water for domestic purposes to any dwelling house comprised in such premises, the authority shall, if it is reasonably practicable so to do, provide the whole supply of water to such premises and dwelling house through a single meter.

57.—(1) Notwithstanding anything in section 35 or 36, where water is supplied by meter by a water authority, the authority shall not be entitled to impose any charge in respect of the provision, installation, repair or maintenance of the meter or of the taking of readings of the meter in any case where the meter is on a pipe not exceeding three-quarters of an inch in diameter.

Charge not to
be made for
provision of
small meters.

(2) The provisions of this section shall have effect notwithstanding anything in the terms and conditions on which the supply of water was agreed to be given, or in any byelaws relating to such supply of water.

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(3) Nothing in this section shall be construed as affecting the right conferred by section 35(5) on a water authority of recovering the cost of repairing any damage wilfully or negligently done to any water fitting belonging to the authority.

Termination
of right to
supply of
water on
special terms.

58.—(1) Where by virtue of any enactment (including any enactment in this Act) or of any agreement a water authority are under an obligation to which this section applies, the authority and the person having the vested interest in the obligation may, with the approval of the Secretary of State, enter into an agreement to terminate the obligation on such terms and conditions as to compensation or otherwise as they may agree; and any such agreement shall be enforceable against any person deriving title from the person who entered into the agreement.

(2) The Secretary of State may, on the application of the water authority and after affording to the person having the vested interest in the obligation an opportunity of making representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State, by order provide for the termination compulsorily of an obligation to which this section applies on payment of compensation, the amount of which shall, in default of agreement, be determined in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement, and the order may contain such incidental, consequential and supplementary provisions, including provisions for the amendment and repeal of any local enactment, as the Secretary of State thinks necessary or expedient.

(3) The amount of the compensation to be paid under subsection (2) shall be assessed by reference to the value of the rights secured under the obligation as at the date of the making of the order, and in assessing that value regard shall be had to the amount of the rate or charge or of the rate and charge, as the case may be, which may reasonably be expected to become payable as a result of the termination of the obligation.

(4) This section applies to any obligation on the part of any water authority providing to any person other than a district council or a water authority a supply of water (whether for domestic purposes or for purposes other than domestic purposes) to provide that supply free of charge or on terms more favourable to the person having the vested interest in the obligation than those which apart from the obligation would be applicable.

(5) The water authority shall record in the appropriate Register of Sasines any agreement entered into or order made under the foregoing provisions of this section terminating an obligation to which this section applies if the obligation was itself recorded in the Register of Sasines.

(6) Where an application under subsection (2) relates to an obligation under which the water authority making the application are required to provide a supply of water to premises in the limits of supply of another water authority or the district of a district council the order may, with the concurrence of the authorities concerned, contain provisions for the payment by that other water authority or by that district council of such part of the compensation payable by virtue of the order as the order may prescribe.

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

(8) No water authority shall by agreement or otherwise incur any obligation of the kind to which this section applies.

59.—(1) Notwithstanding anything in any such obligation as is mentioned in section 58(4) a water authority shall not be liable under the obligation to provide to any premises in any year a quantity of water greater than the quantity supplied thereto in the year immediately preceding 27th October 1948, or to provide to any premises not provided by them with a supply of water on that day a supply otherwise than on the terms on which the supply would, apart from the obligation, have been provided under the Water (Scotland) Act 1946 and the Water (Scotland) Act 1949.

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

1946 c. 42.
1949 c. 31.

(2) Any question arising under the foregoing subsection shall in case of dispute be determined by arbitration.

60.—(1) Each water authority—

Requisitions.

(a) who are a regional council, and

(b) whose limits of supply extend beyond their own region or who supply water to premises in another region,

shall in respect of any financial year determine the aggregate amount by reference to which the amount required to be requisitioned by the water authority under this Part from each of their contributing authorities is to be determined.

(2) Each such water authority shall, by such date or dates as may be prescribed, cause a requisition in respect of any financial year to be sent to their contributing authorities requiring each of them to pay such sum as may be apportioned to each under the subsequent provisions of this Part, and each of those authorities shall, at such intervals and by such instalments as

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may be prescribed, pay over to the water authority the sum so requisitioned.

(3). In this section "prescribed" means prescribed by regulations made by the Secretary of State under section 111 of the Local Government (Scotland) Act 1973.

1973 c. 65.

Calculation of amount to be requisitioned by water authorities.

61.—(1) For the purposes of a requisition referred to in section 60(1) the aggregate amount referred to in that subsection for any financial year shall be the sum by which the estimated expenditure of the water authority in the exercise of any of their functions under any enactment in relation to water supply and chargeable to the revenue account of their general fund exceeds the estimated income pertaining thereto, but excluding from such expenditure any amount payable by way of requisition to another water authority and from such income any amount receivable by way of rates or requisition, and there shall be added to, or, as the case may be, deducted from, that sum any sum required to be brought forward, either as a debit or as a credit, from a previous financial year.

(2) Subject to the provisions of subsection (5), in respect of one third of the aggregate amount calculated under the foregoing subsection, the sum to be requisitioned from each contributing authority of a water authority shall bear to that third the same proportion as the rate product of the relevant part of the region of the contributing authority bears to the aggregate of the rate products of the relevant parts of the regions of the authority making the requisition and of all such contributing authorities, and—

(a) for the purposes of this subsection "rate product" means the product of a rate of one penny in the pound or the standard penny rate product, whichever is the higher for the relevant financial year, and the expressions "product of a rate of one penny in the pound" and "standard penny rate product" have the meanings assigned to them by section 9 of the Local Government (Financial Provisions) (Scotland) Act 1963 ;

1963 c. 12.

(b) for the purposes of this and the next following subsection, "relevant financial year" means, in the case of a requisition in respect of the financial year 1975-76, that year, and in the case of a requisition in respect of any subsequent financial year, the financial year in respect of which the requisition is made or, if the water authority and the contributing authority agree, the financial year of the contributing authority immediately preceding the year in respect of which the requisition

is made on the authority, and “relevant part of a region” means— PART IV

(i) in relation to the region of a regional council, the whole or part of which is within the limits of supply of the water authority, that region, or as the case may be, that part, exclusive of any premises to which a supply of water is given by another water authority but inclusive of any premises outside the limits of supply of the water authority to which a supply of water is given by the water authority, and

(ii) in relation to the region of any other contributing authority, any premises in their region to which a supply of water is given by the water authority.

(3) Subject to the following provisions of this section, in respect of the remainder of the said aggregate amount, the sum to be requisitioned from each contributing authority of a water authority shall bear to that remainder the same proportion as the product of a domestic water rate of one penny in the pound for the relevant financial year, levied on the relevant part of the region of the contributing authority, bears to the aggregate of the products of such a rate levied on the relevant parts of the regions of the authority making the requisition and of all such contributing authorities for the relevant financial year.

(4) In relation to the reference in subsection (3) to the product of a domestic water rate of one penny in the pound for the relevant financial year levied for the relevant part of a region, section 9(1) of the Local Government (Financial Provisions) 1963 c. 12. (Scotland) Act 1963 shall apply, as it applies to the references in Part I of that Act to the product of the rate of one penny in the pound, with the substitution for the words “that area” of the words “that part”.

(5) Where, in the case of any water authority, the Secretary of State considers, having regard to all the circumstances, that it would be unreasonable or inequitable that the methods of calculating the sums to be requisitioned, as required by subsections (2) and (3), should apply, he may by order modify the requirements of either or both of the said subsections or specify a different method of calculation and, in either event, may so specify the financial years during which the provisions of the said order are to operate, and in relation to that authority in respect of those years the provisions of those subsections as so modified, or, where the said order specifies a different method of calculation, the provisions of that order, shall have effect for the purposes of this section.

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1966 c. 51.

1963 c. 12.

(6) For the purpose of making any calculation required by this section, section 12 of the Local Government (Scotland) Act 1966 (apportionments, allocations, etc. relating to local authorities) shall apply as that section applies to section 7(1) of the Local Government (Financial Provisions) (Scotland) Act 1963 with the modification that in subsections (1) and (2) after the words "rate product" there shall be inserted the words "and the product of a domestic water rate of one penny in the pound".

Moneys
borrowed on
security of
rates.

62. Any moneys borrowed by a local water authority other than a local authority shall, in so far as they were immediately before 16th May 1949 secured on the rates leviable by the authority, be deemed as from that date to be secured to the like extent on the sums payable to the authority under requisitions issued by them under this Part.

PART V

HOUSES, ETC., TO BE SUPPLIED WITH WATER

Provision of
water supply
for new
buildings and
houses.

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

1961 c. 34.

(2) In the case of a building being a factory within the meaning of the Factories Act 1961, other than a factory in which the production or the preparation of food or drink for human consumption is carried on by way of trade, where the Secretary of State, after consulting the water authority is satisfied—

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

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

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

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

(5) If any person contravenes any of the provisions of this section, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £50 and in the case of a house or building being occupied as a house contrary to the provisions of subsection (3) he shall be liable to a further fine not exceeding £25 for each day on which the house or building is occupied as a house after conviction; and without prejudice to proceedings for the recovery of any such fine, the local authority may institute civil proceedings for the purpose of interdicting the occupation of any building in the case of which the provisions of subsection (1) are not complied with, or the occupation of a house as a house or the use of a building as a house in the case of which the provisions of subsection (3) are not complied with.

(6) In this section "local authority" has the same meaning as in the Building (Scotland) Act 1959.

1959 c. 24.

64.—(1) It shall be the duty of the owner of every house within which there is not a sufficient supply of wholesome water for domestic purposes to provide such a supply of water in pipes within the house, unless it is not reasonably practicable to do so, and in that event, he shall, so far as not already done, provide such a supply of water immediately outside the house or as near thereto as is reasonably practicable.

Provision of supply of water to other houses.

It shall be the duty of every islands or district council to give such notices as are necessary to secure compliance with the provisions of this subsection, and every such notice shall be served on the owner and on every person known to the council to be interested as a heritable creditor in the house and shall state the time within which the works to which it relates are to be executed.

(2) Where an islands or district council are required by subsection (1) to serve a notice on the owner of any house, they shall require such owner to furnish a written statement specifying the name and address of every person interested as a heritable

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creditor in the house ; and if any person fails to give the council any information required by them under this subsection, or knowingly makes any misstatement with reference thereto, he shall be liable on summary conviction to a fine not exceeding £25.

(3) The owner or any person interested as a heritable creditor in the house may, within 28 days after the service of the notice required to be served under subsection (1), appeal against the notice to the sheriff, who may make such order confirming or varying or annulling the notice as seems to him proper in the circumstances.

(4) If and in so far as the appeal is based on the ground of some informality, defect or error in or in connection with the notice, the sheriff shall dismiss the appeal if he is satisfied that the informality, defect or error was not a material one.

(5) Subject to such right of appeal, if an owner on whom such a notice requiring the execution of any work is served fails to execute the work within the time thereby limited, the islands or district council—

- (a) may themselves execute the work and for that purpose may exercise the like powers as a water authority may exercise under this Act for the purposes of their water undertaking, and may recover from the owner the expenses reasonably incurred by them in executing the work ; or
- (b) may agree with the occupier of the house that he shall execute the works, in which case, on the works being executed and paid for by the occupier, he shall be entitled to recover from the owner the expenses reasonably incurred by him in so doing, together with interest thereon at the rate of five per cent. per annum from the date of service of a demand for payment of the said expenses, or to deduct the amount of such expenses and interest from the rent of the house from time to time becoming due to the owner.

(6) Where the owners of two or more houses have failed to comply with the requirements of such notices and the islands or district council might execute the necessary works for the supply of water for each house, the council may, if it appears to them desirable and that no greater expense would be occasioned thereby, execute works for the joint supply of water for those houses, and may recover the whole or a reasonable part of the expenses incurred by them from the owners of the houses in such proportions as may be determined by the council or, in case of dispute, by arbitration.

(7) Where an islands or district council are satisfied that an owner on whom such a notice requiring the execution of any work is served is unable to comply with the requirements thereof by reason of his being unable on reasonable terms to acquire any necessary rights to take water from a suitable source or to lay pipes through any land not belonging to him or to do any other work, the council may at the expense of the owner themselves take such steps as are necessary for the execution of the work, and for that purpose may exercise the like powers as a water authority may exercise under this Act for the purposes of their water undertaking.

(8) An islands or district council may, if they think fit, contribute towards the cost of complying with any requirement made by them under the foregoing provisions of this section, and where they agree to make such a contribution the expenses shall be deemed to be the net expenses after deducting such contribution.

(9) Without prejudice to any of the foregoing provisions of this section, an owner on whom a notice given under this section has been served shall, if he fails to comply with any requirement thereof, be guilty of an offence and shall on summary conviction be liable to a fine not exceeding £25 and to a further fine not exceeding £25 for each day on which the default continues after conviction therefor.

(10) Where proceedings for the recovery of expenses incurred under this section are taken against an owner on whom a notice under this section has been served, it shall not be open to him to raise in those proceedings any question which he could have raised on an appeal under this section.

(11) In this section and in the three next following sections the expression "owner" has the same meaning as in the Public Health (Scotland) Act 1897: c. 38.

Provided that a landholder within the meaning of the Small Landholders (Scotland) Acts 1886 to 1931 shall, for the purposes of the said sections, be deemed to be the owner of any house on his holding in respect of which he would, on the termination of his tenancy, be entitled to compensation under the said Acts.

65.—(1) Where an islands or district council have under section 64 required any owner of a house to execute any works and the work has been completed, the council may on the application of the owner and on being satisfied as to the due execution of the work and as to the amount of the expenditure thereon make an order (in this section referred to as a "charging order") declaring that the house and any land held in connection

Power of council to make charging order for expenses of executing works.

PART V

therewith are thereby charged and burdened with an annuity to repay the amount of the expenditure together with the expenses of obtaining the charging order and recording it in the appropriate Register of Sasines.

(2) Subject as hereinafter provided, the annuity charged shall be such sum (not exceeding such sum as may from time to time be prescribed) as the council may determine in respect of every hundred pounds of the said amount, and so in proportion in respect of any fraction of that amount, and shall commence from the date of the order and be payable by equal half-yearly payments to the person named in the order by whom the expenditure was incurred, his executors or assignees until the expiration of a period of 30 years from the date on which the council were satisfied as to the due execution of the work.

(3) Where a council have incurred expenses in the execution of works under section 64 then, without prejudice to any other remedy for, or any preference with respect to, the recovery thereof, it shall be competent for them, on giving not less than 14 days' notice to the owner, to make a charging order in favour of themselves in respect of such expenses (including the expenses of obtaining the charging order and recording it in the appropriate Register of Sasines) in like manner as they may make a charging order in favour of a person under the foregoing provisions of this section.

(4) A charging order shall not have effect until it is recorded in the appropriate Register of Sasines.

(5) Every annuity constituted a charge by a charging order which is recorded in the appropriate Register of Sasines shall be a charge on the house and land specified in the order, having priority over all existing and future estates, interests and incumbrances with the exception of—

- (a) feuduties and teinds ;
- (b) any charges on the premises by virtue of charging orders under the Housing (Scotland) Acts 1966 to 1975 recorded before the recording of the order under this section ; and
- (c) any charge created under any Act authorising advances of public money ;

and where more annuities than one are charged under this section on any house and land such annuities shall as between themselves have order and preference according to the respective dates of the recording of the charging orders in the appropriate Register of Sasines.

(6) A charging order recorded in the appropriate Register of Sasines shall be conclusive evidence that all notices, acts and proceedings by this Part of this Act required in connection with the execution of the work or with reference to or consequent on obtaining or making such an order have been duly served, done and taken, and that the charge has been duly created and is a valid charge on the house and land declared to be subject thereto.

(7) Every annuity charged by any such charging order may be recovered by the person for the time being entitled to it by the same means and in the like manner in all respects as if it were a rentcharge secured on the subjects by absolute order made under and in terms of the Improvement of Land Act 1864. 1864 c. 114.

(8) A charging order and all sums payable thereunder may from time to time be transferred in like manner as a standard security or rentcharge.

(9) Any owner of, or other person interested in, a house and land on which an annuity has been charged by any such charging order shall at any time be entitled to redeem the annuity on payment to the person entitled to the annuity of such sum as may be agreed upon or, in default of agreement, determined by the Secretary of State.

(10) A charging order shall be in such form as may be prescribed.

66.—(1) Where an islands or district council have incurred expenses, for the repayment of which the owner of premises in respect of which the expenses were incurred is liable under this Part of this Act or the corresponding provisions contained in any enactment repealed by this Act, those expenses, together with interest from the date of service of a demand for payment of those expenses, may be recovered by the council from the person who is the owner of the premises at the date when the works are completed, or, if he has ceased to be the owner of the premises before the date when a demand for payment of the expenses is served from the person who is the owner at the date when the demand is served. Recovery of expenses from owner.

(2) An islands or district council may by order declare any expenses so recoverable by them to be payable with interest by instalments for a period not exceeding 30 years until the whole amount is paid; and any such expenses and interest, or any part thereof, may be recovered from the owner or occupier for the time being of the premises in respect of which the expenses were incurred, and if recovered from the occupier may be deducted by him from the rent of the premises:

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Provided that an occupier shall not be required to pay at any one time any sum in excess of the amount which was due from him on account of rent at, or has become due from him on account of rent since, the date on which he received a demand from the council, together with a notice requiring him not to pay rent to his landlord without deducting the sum so demanded.

An order may be made under this subsection at any time with respect to any unpaid balance of expenses and accrued interest, so however that the period for repayment shall not in any case extend beyond 30 years from the service of the first demand for payment of the expenses.

(3) The rate of interest chargeable under subsection (1) or (2) shall be such as the islands or district council may determine :

Provided that the Secretary of State may from time to time prescribe a maximum rate of interest for the purposes of this section generally or different maximum rates for different purposes and in different cases, but no such maximum shall exceed the rate provided for in section 121(2) of the Local Government (Scotland) Act 1973.

1973 c. 65.

Limitation of liability of certain owners.

67. Where an islands or district council claim to recover any expenses under this Part of this Act from a person as being the owner of the premises in respect of which the expenses were incurred, and that person proves that he—

- (a) is receiving the rent of those premises merely as a trustee, tutor, curator, factor or agent for some other person, and
- (b) has not, and since the date of the service on him of the demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the council,

his liability shall be limited to the total amount of the money which he has or has had in his hands as aforesaid ; but an islands or district council who are or would be debarred by the foregoing provisions from recovering the whole of any such expenses from a trustee, tutor, curator, factor or agent may recover the whole or any unpaid balance thereof from the person on whose behalf he receives the rent.

PART VI**CONSERVATION AND PROTECTION OF WATER RESOURCES**

Agreements as to drainage.

68.—(1) A water authority or water development board may enter into agreements—

- (a) with the owners and occupiers of any land, in so far as their interest enables them to bind it, or

(b) with a regional, islands or district council,

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with respect to the execution and maintenance by any party to the agreement of such works as the authority or board consider necessary for the purpose of draining that land, or for more effectually collecting, conveying, or preserving the purity of, water which they are for the time being authorised to take:

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

(2) An agreement under this section with an owner of land shall, if it is so expressed therein, on being recorded in the appropriate Register of Sasines, be binding upon and enforceable against any person subsequently acquiring the land or any estate or interest therein.

(3) An agreement under this section with a regional or islands council may extend to the execution and maintenance by that council of works of sewerage and sewage disposal.

69.—(1) If a water authority are of opinion that a serious deficiency of water available for distribution by them exists, or is threatened, they may for such period as they think necessary prohibit or restrict as respects the whole or any part of their limits of supply the use for the purpose of watering private gardens or washing private motor cars of any water supplied by them and drawn through a hosepipe or similar apparatus. Power to restrict use of hose pipes.

In this subsection the expression "private motor car" means a mechanically propelled vehicle intended or adapted for use on roads other than a public service vehicle within the meaning of section 117(1) of the Road Traffic Act 1960, or a goods vehicle within the meaning of section 196 of the Road Traffic Act 1972, and includes any vehicle drawn by a private motor car. 1960 c. 16. 1972 c. 20.

(2) The authority shall, before the prohibition or restriction comes into force, give notice by publication in two or more newspapers circulating within the area affected and by such other means as the authority may think proper of the prohibition or restriction and of the date when it will come into force.

(3) Any person who, while the prohibition or restriction is in force, contravenes its provisions, shall in respect of each offence be liable on summary conviction to a fine not exceeding £200.

PART VI
Byelaws for
preventing
misuse of
water.

70.—(1) A water authority or water development board may make byelaws for preventing waste, undue consumption, misuse or contamination of water supplied by them, and such byelaws may, without prejudice to the foregoing generality, include provisions—

- (a) prescribing the size, nature, design, materials, strength and workmanship, and the mode of arrangement, connection, disconnection, alteration and repair of the water fittings to be used ; and
- (b) forbidding the use of any water fittings which are of such a nature or design or are so arranged or connected as to cause or permit, or be likely to cause or permit, waste, undue consumption, misuse, erroneous measurement or contamination of water, or reverberation in pipes.

(2) If a person contravenes the provisions of any byelaw made under this section, the authority or board may, whether proceedings have been taken in respect of the offence or not, cause any water fittings belonging to or used by that person which are not in accordance with the requirements of the byelaws to be altered, repaired or replaced, and may recover the expenses reasonably incurred by them in so doing from the person in default.

(3) Nothing in this section, or in any byelaw made thereunder, shall apply to any fittings used on premises which belong to a railway company and are held or used by them for the purposes of their railway, so long as those fittings are not of such a nature or design or so arranged or connected as to cause or permit waste, undue consumption, misuse or contamination of water supplied by the authority or board or reverberation in pipes :

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

Byelaws for
preventing
pollution of
water.

71.—(1) If it appears to a water authority or water development board to be necessary for the purpose of protecting against pollution any water whether on the surface or underground, which belongs to them or which they are for the time being authorised to take, they may by byelaws—

- (a) define the area within which they deem it necessary to exercise control ; and
- (b) prohibit or regulate the doing within that area of any act specified in the byelaws.

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

(2) Where an area has been defined by byelaws under this section, the authority or board may by notice require either the owner or the occupier of any premises within that area to execute and keep in good repair such works as they consider necessary for preventing pollution of their water, and, if he fails to comply with any such requirement, he shall be liable on summary conviction to the same penalties as if he had committed an act prohibited by the byelaws:

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

(3) The authority or board shall pay compensation to the owners and occupiers of, and other persons interested in, any premises within the area defined by byelaws made under this section in respect of—

- (a) any curtailment or injurious affection of their legal rights by restrictions imposed by the byelaws; and
- (b) any expenses incurred by them in complying with a requirement to construct and maintain any works the construction of which could not, apart from this section, lawfully have been required otherwise than upon payment of compensation by the regional, islands or district council;

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

In this subsection the expression "legal rights" includes the use of land in respect of which proceedings might have been taken by the regional, islands or district council or otherwise under any public general Act or under byelaws made thereunder, but have not been so taken, either by reason of the character or situation of the land or for some other reason.

(4) Where any person has failed to comply with a requirement made on him under subsection (2) and either—

- (a) he has not appealed to the sheriff against that requirement and the time for appealing has expired, or
- (b) his appeal has been dismissed or the requirement has been modified on his appeal and he has failed to comply with the requirement as so modified,

the authority or board may, whether proceedings have been taken in respect of such failure or not, execute and keep in good repair the works specified in the requirement as originally made or, as the case may be, as modified on appeal, and may recover the expenses reasonably incurred by them in so doing from the

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person in default, except expenses incurred in respect of works the construction of which could not, apart from this section, lawfully have been required otherwise than upon payment of compensation by the regional, islands or district council.

(5) Two or more authorities or boards may combine for the purpose of making and enforcing byelaws under this section, and this section and section 72(2) shall in any such case have effect as if the references to an authority or board were references to those two or more authorities or boards acting jointly.

(6) Nothing in this section shall be construed as empowering the authorities or boards to make any byelaws restricting the rights of a navigation authority under any enactment.

General provisions as to byelaws.

72.—(1) The Secretary of State shall be the confirming authority as respects byelaws made under either of the last two foregoing sections, and the provisions of Part IV of Schedule 1 shall apply to the making and confirming of such byelaws.

(2) It shall be the duty of a water authority and water development board by whom such byelaws are made to enforce those byelaws, so however that nothing in this subsection shall be construed as authorising the authority to institute proceedings for any offence against those byelaws.

(3) Any such byelaws may contain provisions for imposing on any person contravening the byelaws a fine, recoverable on summary conviction, not exceeding the sum of £400 in respect of each offence, and in the case of a continuing offence a further fine not exceeding £50 for each day during which the offence continues after conviction therefor.

(4) Any byelaw made under either of the last two foregoing sections shall cease to have effect on the expiration of the period of 10 years beginning with the date on which it was made; but the Secretary of State may by order extend the period during which any such byelaw is to remain in force.

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

73.—(1) The Secretary of State may by notice require a water authority or water development board to make byelaws under section 70 or 71 in relation to such matters as he may specify, and, in the case of byelaws made under section 71, he shall specify the area for which the byelaws are to be made, and if the authority or board do not within three months after such requirement make in relation to the matters specified byelaws satisfactory to him, the Secretary of State may himself make byelaws with respect to those matters.

(2) If, after they have been in operation for a period of not less than three years, the Secretary of State considers unsatisfactory any byelaws made by an authority or board under section 70 or 71 or any byelaws or regulations made by an authority or board under any other enactment conferring power to make byelaws or regulations for purposes similar to the purposes for which byelaws may be made under either of the said sections, he may by notice require the authority or board to revoke those byelaws or regulations and to make such new byelaws under section 70 or 71 as he considers necessary; and if the authority or board do not within three months after such requirement comply therewith, the Secretary of State may himself revoke the byelaws or regulations and make such new byelaws under section 70 or 71 as he considers necessary.

(3) Any byelaws made by the Secretary of State under this section shall have effect as if they had been made by the authority or board concerned and confirmed by the Secretary of State.

74.—(1) The Secretary of State may make regulations for any of the purposes for which byelaws may be made under section 70 (byelaws for the prevention of waste, misuse or contamination of water); and any such regulations shall have effect in substitution for any such byelaws in force immediately before the coming into force of these regulations.

(2) Any reference in this Act to a byelaw made under the said section 70 (other than a reference in section 72(1), (2) and (4) to byelaws) shall include a reference to a regulation made under this section.

Regulations to prevent waste, misuse or contamination of water.

(3) Regulations made under this section may be made so as to apply in all parts of Scotland or to apply only in such part or parts as may be specified in the regulations, and may contain different provisions for different parts, or for different circumstances in any such part.

75.—(1) If any person is guilty of any act or neglect whereby any spring, well or adit, the water from which is used or likely to be used for human consumption or domestic purposes or for manufacturing food or drink for human consumption, is polluted or likely to be polluted, he shall be guilty of an offence.

Penalty for polluting water.

(2) Nothing in this section shall be construed as prohibiting or restricting—

(a) any method of cultivation or use of land which is in accordance with the principles of good husbandry; or

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(b) the reasonable use of oil or tar on any highway, so long as the highway authority take all reasonable steps for preventing the oil or tar, or any liquid or matter resulting from the use thereof, from polluting any such spring, well or adit.

(3) Any person guilty of an offence by virtue of this section shall be liable in respect of each offence—

(a) on summary conviction, to a fine not exceeding the prescribed sum and, in the case of a continuing offence, to a further fine not exceeding £50 for every day during which the offence is continued after conviction ;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both a fine and such imprisonment.

1975 c. 21.

(4) In this section, “the prescribed sum” has the same meaning as in section 289B(6) of the Criminal Procedure (Scotland) Act 1975.

Acquisition of land for protection of water.

76.—(1) For the purpose of any provision of this Act conferring power on a water authority or water development board to acquire land for the purposes of their undertaking, there shall be deemed to be included among those purposes the purpose of protecting against pollution any water, whether on the surface or underground, which belongs to the authority or board or which they are for the time being authorised to take.

(2) A water authority or water development board may on any land belonging to them, or over or in which they have acquired the necessary servitudes or rights, construct or maintain drains, sewers, watercourses, catchpits and other works for intercepting, treating or disposing of any foul water arising or flowing upon that land, or for otherwise preventing water which belongs to the authority or board or which they are for the time being authorised to take from being polluted :

Provided that—

(a) before constructing any such works the authority or board shall, if the proposed works will affect any watercourses in a fishery district or which is subject to the jurisdiction of a navigation authority, consult with the fishery district board or the navigation authority concerned ;

(b) nothing in this subsection shall authorise the authority or board to intercept or take any water which a navigation authority or any public undertakers are authorised by any enactment to take or use for the purposes of their undertaking without the consent of that navigation authority or those public undertakers.

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(3) A water authority or water development board proposing to construct any drain, sewer or water-course for the purposes mentioned in subsection (2) may, with the consent of the highway authority concerned, which may be given subject to such conditions as the highway authority think fit, carry the drain, sewer or water-course under, across or along any street whether within or outside their limits of supply or their area, and such statutory provisions with respect to the breaking open of streets as are applicable to the authority or board shall, with any necessary modifications and adaptations, apply accordingly:

Provided that the consent of the highway authority shall not be required by virtue of this subsection for the carrying by any authority or board of any drain, sewer or water-course under any street maintainable at the public expense which is within the limits of supply of that authority or the area of that board.

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

PART VII

POWERS TO SUPPLY WATER DURING DROUGHT

77.—(1) If the Secretary of State is satisfied that by reason of an exceptional shortage of rain a serious deficiency of supplies of water in any locality exists or is threatened, he may, subject to the provisions of this section, on the application of any water authority who supply water in that locality, make an order containing such provisions for any of the following purposes as appear to him to be expedient with a view to meeting the deficiency, that is to say—

Obtaining supplies to meet drought.

(a) for authorising the authority, subject to any specified conditions or restrictions, to take water from any specified source for a period not exceeding six months, or

(b) for suspending or modifying, subject to any specified conditions, and for a period not exceeding six months, any restriction or obligation to which the authority are subject as respects—

- (i) the taking of water from any source,
- (ii) the discharge of compensation water, or
- (iii) the filtration or other treatment of water,

and the Secretary of State may include in the order such supplementary, incidental and consequential provisions as appears to him to be expedient for those purposes.

PART VII

Before any water authority make an application under this section they shall consult with any river purification authority and any fishery district board upon whom notice of the application will be required to be served by Schedule 5.

(2) In an order made under paragraph (a) of subsection (1) for authorising the taking of water from a source from which water is supplied to an inland navigation, or in an order made under paragraph (b) of subsection (1)—

- (a) for suspending or modifying a restriction as respects the taking of water from a source from which water is supplied to an inland navigation, or
- (b) for suspending or modifying an obligation to discharge compensation water into a canal or into any river or stream which forms part of, or from which water is supplied to, an inland navigation,

the Secretary of State may include provisions for prohibiting or imposing limitations on the taking of water from the inland navigation or for the suspension or modification of any obligation to which the navigation authority are subject as respects the discharge of water from the inland navigation.

(3) An order under this section may authorise the water authority, subject to any specified conditions and restrictions, to execute any works required for the discharge of their functions under the order and—

- (a) may authorise the authority for that purpose to enter upon any specified land and to occupy and use the land to such extent and in such manner as may be requisite for the execution and maintenance of the works, and
- (b) may authorise the authority to borrow temporarily any money required to defray the cost of carrying out the works, and
- (c) may apply in relation to the execution of the works such of the provisions contained in section 23 and Schedules 3 and 4 (which include in particular provisions relating to the laying of mains and the breaking open of streets), as appear to the Secretary of State to be appropriate, subject to such modifications and adaptations as may be specified in the order.

(4) In an order which authorises the water authority to enter on land the Secretary of State shall include provisions requiring the authority to give to the occupier of the land, and to such other persons concerned with the land as may be specified in the order, not less than seven days' notice of their intended entry on the land.

(5) In the exercise of his power to make orders under this section the Secretary of State shall have regard to the interests of all persons concerned in the conservation or use of the water to which the order relates.

(6) The provisions of Schedule 5 shall have effect in relation to the procedure to be followed in connection with the making of orders under the foregoing provisions of this section, and the provisions of Schedule 6 shall have effect with respect to the payment of compensation to persons affected by orders so made.

(7) The Secretary of State may by order revoke any order made by him under this section.

(8) If a water authority—

(a) take water from a source in contravention of a restriction contained in an order under this section or fail to comply with the requirements of an order under this section as to the discharge of compensation water, or

(b) fail to construct or maintain in good order a gauge, weir or other apparatus for measuring the flow of water which they were required to construct or maintain by an order under this section, or fail to allow some person authorised in that behalf by any such order to inspect and examine any such apparatus or any records made thereby or kept by the authority in connection therewith or to take copies of any such records,

they shall, without prejudice to their civil liability, if any, to a person aggrieved, be liable—

(i) on summary conviction of an offence under paragraph (a) or (b) of this subsection, to a fine not exceeding £100; and

(ii) on conviction on indictment of an offence under paragraph (a) of this subsection to a fine.

78.—(1) If the Secretary of State is satisfied that by reason of an exceptional shortage of rain a serious deficiency of supplies of water in any locality exists or is threatened, he may, on the application of any water authority who supply water in that locality, make an order containing such provisions for any of the following purposes as appear to him to be expedient with a view to meeting the deficiency, that is to say—

Supplying water by temporary means during a drought.

(a) for authorising the authority for a period not exceeding six months to supply water in any area within their limits of supply by means of stand-pipes or water tanks, and to erect or set up and maintain stand-pipes or water tanks in any street in that area,

PART VII

- (b) for confirming any right to raise, charge and levy any water rate or minimum charge which might have been raised, charged and levied if there had been no interruption or diminution of the supply of water and for suspending or modifying any enactment or agreement so far as it relates to a failure to make normal supplies of water available in an area where water is being supplied by means of stand-pipes or water tanks, and
- (c) for applying in relation to any works to be carried out under the order such of the provisions contained in section 23 and Schedules 3 and 4 as appear to the Secretary of State to be appropriate, subject to such modifications and adaptations as may be specified in the order.

1950 c. 39.

(2) Any works to be carried out in the course of erecting or setting up stand-pipes or water tanks under this section shall be included in the definition of emergency works in section 39(1) of the Public Utilities Street Works Act 1950.

(3) The provisions of Schedule 5 shall have effect in relation to the procedure to be followed in connection with the making of orders under the foregoing provisions of this section.

(4) The Secretary of State may by order revoke any order made by him under this section.

Interpretation
of Part VII.

79.—(1) In this Part, except where the context otherwise requires—

“compensation water” means water which any water authority are under an obligation to discharge into a river, stream, brook or other running water or into a canal as a condition of carrying on their undertakings ;

“inland navigation” includes any canal or navigable river ;

“obligation” includes an obligation imposed by an enactment or agreement and “restriction” has a corresponding meaning ;

“river purification authority” has the meaning assigned to it by the Rivers (Prevention of Pollution) (Scotland) Act 1951 ;

“take”, in relation to water, includes the collection, impounding, diversion and appropriation of water.

1951 c. 66

(2) Any power of making orders under this Part shall be exercisable by statutory instrument and shall include power—

(a) from time to time to extend a period specified in a previous order, but not so as to extend beyond a year any period which under this Act is not to exceed six months,

(b) to vary a previous order in any other respect.

PART VIII

WATER DEVELOPMENT BOARDS

80.—(1) The Central Scotland Water Development Board (in this Act referred to as “the Central Board”) established under section 3 of the Water (Scotland) Act 1967 shall continue to perform the functions assigned or transferred to them by or under that Act.

Central
Scotland
Water
Development
Board.
1967 c. 78.

(2) The area for which the Central Board is established shall comprise the limits of supply as water authorities of the Tayside, Fife, Lothian, Central and Strathclyde regional councils.

81.—(1) The Central Board shall continue to perform the functions transferred to them on 16th May 1968 under section 4 of the Water (Scotland) Act 1967 from joint water boards whose limits of supply were comprised in their area and whose principal function was the supply of water in bulk to the constituent authorities of those boards.

Functions of
Central Board.

(2) There shall be assigned to the Central Board the function of developing new sources of water supply for the purposes of giving a supply of water in bulk to two or more water authorities whose limits of supply are comprised in the area of the Board.

82.—(1) Subject to the provisions of this section, the Secretary of State may at any time by order—

Establishment
of new water
development
boards.

(a) designate an area for the purpose of establishing a new water development board (consisting of any part of Scotland, whether wholly or partly comprised in such an area already existing or not) and establish such a board; or

(b) alter the area of any water development board, specified or designated by virtue of this Act.

(2) Any order under this section may contain such transitional, incidental, supplementary and consequential provisions as the Secretary of State may consider necessary or expedient for the purposes of the order including (but without prejudice to the generality of this subsection) such provisions as he considers necessary or expedient with respect to the transfer of functions, assets and liabilities, the amendment, adaptation or repeal of local enactments, or the application (subject to such exceptions, adaptations and modifications as may be specified in the order) of any of the provisions of this Act.

(3) Where a new water development board are established by an order under this section, they shall have, in addition to any other functions assigned or transferred to them by the order, the like functions as the Central Board.

PART VIII

(4) The provisions of Schedule 7 shall have effect in relation to the making of an order under this section.

Duty of water authorities and development boards to collaborate.

83.—(1) Water authorities and water development boards shall, in matters of common interest in relation to the performance of their functions, consult together and collaborate.

(2) Where a water authority or a water development board propose to investigate a potential new source of water supply, they shall give notice thereof as early as possible to any water authority or water development board likely to be interested so that the consultation required by the foregoing subsection may begin as soon as possible.

Constitution of water development boards.

84.—(1) The members of a water development board shall be appointed from and by the constituent water authorities of which they are members.

(2) The number of members of a water development board to be appointed by each constituent authority shall be two or such greater number as the Secretary of State may by order specify in relation to any constituent authority where he is satisfied that the greater number is necessary in view of special circumstances relating to that authority or their limits of supply.

(3) In this Act, “constituent water authority”, in relation to a water development board, means a water authority any part of whose limits of supply is comprised in the area of that water development board.

(4) The provisions of Schedule 8 shall have effect in relation to water development boards.

Requisitions.

85.—(1) Each water development board shall in respect of any financial year determine the aggregate amount required to be requisitioned by the board under this Part from their contributing authorities.

(2) Each water development board shall, by such date or dates as may be prescribed, cause a requisition in respect of any financial year to be sent to their contributing authorities requiring each of them to pay such sum as may be apportioned to each under the subsequent provisions of this Part, and each of those authorities shall, at such intervals and by such instalments as may be prescribed, pay over to the board the sum so requisitioned.

(3) In this section “prescribed” means prescribed by regulations made by the Secretary of State under section 111 of the Local Government (Scotland) Act 1973.

86. For the purposes of a requisition referred to in section 85(1), the aggregate amount required to be raised from their constituent water authorities by a water development board for any financial year shall be apportioned in accordance with a scheme prepared and approved in accordance with the provisions of this Part and referred to as an "apportionment scheme", and such aggregate amount shall be the sum by which the estimated expenditure of the water development board chargeable to the revenue account of their general fund exceeds the estimated income of that account, and there shall be added to, or as the case may be, deducted from that sum any sum required to be brought forward either as a debit or as a credit from a previous financial year.

PART VIII
Calculation of amount to be requisitioned by water development boards.

87.—(1) By such a date as the Secretary of State may specify a water development board shall prepare and submit to him a scheme for his approval as an apportionment scheme.

Apportionment schemes.

(2) Such a scheme as aforesaid shall provide for an apportionment between the constituent water authorities of a water development board of the aggregate amount to be requisitioned from those authorities and shall have regard to the general principle that the amount to be requisitioned from each constituent authority is to be proportionate to the quantities of water supplied and expected to be supplied to that authority by the water development board.

88. When an apportionment scheme has been approved, with or without modifications, by the Secretary of State as an apportionment scheme, it shall come into operation on such a date and for such a period (if any) as may be specified in the apportionment scheme, and, where any period is so specified, the Secretary of State may approve an application for an extension of that period.

Duration of scheme.

89.—(1) Where an apportionment scheme is for the time being in force in respect of a water development board, the board may apply to the Secretary of State for a revision of that scheme, and any such application shall include the submission for his approval of a new apportionment scheme prepared by the board either by way of variation of, or substitution for, the apportionment scheme in force at the time of the application.

Revision of apportionment schemes.

(2) The Secretary of State may require a water development board to make, by such a date as he may specify, such an application as aforesaid.

PART VIII

(3) Sections 87(2) and 88 shall apply to a new apportionment scheme as it does to an apportionment scheme.

(4) The reference in section 86 to an apportionment scheme in relation to any water development board shall be construed as a reference to an apportionment scheme which is for the time being in force in respect of requisitions made by that board.

Default by water development board on apportionment scheme.

90. In the event of a water development board failing to submit an apportionment scheme, or, as the case may be, a new apportionment scheme, for approval by the date by which it is due, the Secretary of State shall, after consultation with the water development board and their constituent water authorities, make on behalf of that board an apportionment scheme or a new apportionment scheme (whichever is appropriate) and the scheme so made shall be binding on the water development board and their constituent authorities.

Provision of services for water authorities and development boards.

91. A regional, islands or district council may provide the water authority or water development board with such services as the authority or board may request for the performance of their functions; and any water development board may make such provision as aforesaid for any water authority or any other such board.

Power of water development boards to promote or oppose private legislation.
1936 c. 52.

92.—(1) Subject to the provisions of this section, a water development board may petition for the issue of a provisional order under the Private Legislation Procedure (Scotland) Act 1936 or oppose any private legislation in Parliament where they are satisfied that it is expedient so to do, and may defray the expenses incurred in relation thereto.

(2) A water development board shall not petition for the issue of a provisional order as aforesaid without the consent of the Secretary of State, and the Secretary of State shall not give such a consent unless he is satisfied that the powers sought by the proposed order cannot be obtained by means of an order under this Act.

(3) An application for the consent of the Secretary of State for the purposes of this section shall be accompanied by a concise summary of the purposes of the proposed order.

(4) In this section “private legislation in Parliament” includes a provisional order, and the confirmation Bill relating thereto under the said Act of 1936, and any local or personal Bill.

PART IX

PART IX

GENERAL

93.—(1) Any person who proposes to sink, for the purpose of searching for or abstracting water, a well or borehole intended to reach a depth of more than 50 feet below the surface shall, before he begins to do so, give to the Natural Environmental Research Council notice in writing of his intention to do so, and shall keep a journal of the progress of the work, which shall include measurements of the strata passed through, and all the levels at which water is struck and subsequently rests, and shall allow any person authorised by the said council for the purpose, on the production of some duly authenticated document showing his authority, at all reasonable times—

Obtaining of information as to underground water.

- (a) to have free access to any such well or borehole ;
- (b) to inspect the well or borehole and the material excavated therefrom ;
- (c) to take specimens of such material and of water abstracted from the well or borehole ; and
- (d) to inspect and take copies of or extracts from the journal required to be kept under this section.

(2) The person sinking any such well or borehole shall, on completion or abandonment of the work, send a complete copy of the journal kept under subsection (1) to the council and shall also send them particulars of any test made, before such completion or abandonment, of the flow of water, specifying the rate of flow throughout the test and the duration of the test, and also, where practicable, specifying the water levels during the test and thereafter until the water has returned to its natural level.

(3) Where any such well or borehole is sunk in connection with an existing pumping station, the particulars of any test to be supplied to the council shall also include the rate of pumping at the existing works during the test.

(4) Where the person sinking a well or borehole on any land is not the occupier of the land, the obligation to allow a person authorised by the council to exercise the rights specified in paragraphs (a) to (d) of subsection (1) shall be the obligation of the occupier as well as of the person sinking the well or borehole.

(5) Where any person contracts to sink any well or borehole on land belonging to or occupied by any other person and the execution of the work is under the control of the contractor, the contractor and no other person shall be deemed for the purposes of this section to be the person sinking the well or borehole.

PART IX

(6) The person sinking a well or borehole or (if a different person) the owner or occupier of the land on which it is sunk may give notice in writing to the council requiring them to treat as confidential any copy of or extract from the journal required to be kept under subsection (1) or any specimen taken under that subsection, and the council shall thereupon not allow that copy, extract or specimen, except in so far as it contains or affords information as to water resources and supplies, to be published or shown to any person not being an officer of the council or of the Secretary of State, unless the person giving the notice consents thereto:

Provided that, if at any time the council give notice to that person that in their opinion his consent is unreasonably withheld, then that person may, within three months after the notice is given by the council, appeal to the Court of Session, but if at the expiration of that period no such appeal has been made, or if after hearing the appeal the Court does not make an order restraining them from doing so, the council may proceed as if such consent had been given.

(7) Any person who fails to comply with any obligation imposed on him by the provisions of this section shall be guilty of an offence against this Act and shall on summary conviction be liable to a fine not exceeding £200 and, where the offence continues after conviction, to a further fine of £20 for every day during which it so continues.

False
information.

94. Any person who, in keeping any record or journal or in furnishing any return, abstract or information which he is required by or under this Act to keep or furnish, knowingly or recklessly makes any statement which is false in a material particular shall be liable in respect of each offence—

- (a) on summary conviction, to a fine not exceeding £50 or to imprisonment for a term not exceeding three months or to both such fine and imprisonment;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

Penalties for
offences.

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

- (a) on summary conviction, to a fine not exceeding £50 and in the case of a continuing offence to a further fine not exceeding £25 for every day during which the offence is continued after conviction;

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

96. Any offence under this Act or under any byelaw made under this Act (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 £25 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. Trial of offences.
1975 c. 21.

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

98. The Secretary of State may cause such local inquiries to be held as he may consider necessary or proper in connection with the discharge by him of any of his functions under this Act or under any other enactment with respect to water supplies or water undertakings, and the provisions of section 210(2) to (9) of the Local Government (Scotland) Act 1973 shall apply to any such local inquiry and to any other local inquiry which he is required by this Act or any other such enactment to cause to be held. Local inquiries.
1973 c. 65.

99.—(1) Any inquiry in relation to an order under this Act which in certain events becomes subject to special parliamentary procedure shall, if the Secretary of State so directs, be held by commissioners under the Private Legislation Procedure (Scotland) Act 1936; and any direction so given shall be deemed to have been given under section 2, as read with section 10, of the Statutory Orders (Special Procedure) Act 1945. Orders subject to special parliamentary procedure.
1936 c. 52.
1945 c. 18.

(2) Nothing in section 210(2) to (9) of the Local Government (Scotland) Act 1973 shall apply to any inquiry under this section by commissioners under the Private Legislation Procedure (Scotland) Act 1936.

PART IX
1945 c. 18.

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

Orders.

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

(2) Before making an order under section 4, 61, 82, 84 or 107 of this Act the Secretary of State shall consult all water authorities and water development boards whose limits of supply or areas are affected by the order ; but nothing in this subsection shall require the Secretary of State to have such consultation as aforesaid—

(a) with a water development board, where the order relates only to any water authority or their limits of supply, or

(b) where the order is being made under section 107(1) on the application of a water authority or a water development board.

Regulations.

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

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

Expenses.

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

Notices to be
in writing.

103. All notices, consents, approvals, demands and other documents authorised or required by or under this Act or any local enactment incorporating any provisions of Schedule 4 to be given, made or issued by the Secretary of State or any regional, island or district council, or water authority or water development board, and all notices and applications authorised or required by or under this Act or any such local enactment to be given or made to the Secretary of State or to, or to any officer of, any regional, islands or district council, or water authority or water development board, shall be in writing.

104.—(1) It shall be competent to appeal to the sheriff-PART IX
principal against the decision of a sheriff on any application to Appeal to
him under this Act within 21 days after the date of that decision, sheriff-
but subject thereto the decision of the sheriff-principal or sheriff principal.
shall be final.

(2) The provisions of this section shall also apply in the case of applications to the sheriff-principal under any local enactment incorporating any provisions of Schedule 4.

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

106.—(1) Where for the purposes of this Act the Secretary Supplemen-
of State or an arbiter is required to determine a dispute, the tary provisions
following provisions of this section shall apply in relation to relating to
that determination. determination
of disputes.

(2) Any such arbiter shall have the like powers for securing the attendance of witnesses and the production of documents, and with regard to the examination of witnesses on oath and the awarding of expenses, as if the arbitration were under a submission.

(3) The arbiter may, and if so directed by the Court of Session shall, state a case for the opinion of that Court on any question of law arising in the proceedings.

(4) Any award of the Secretary of State or, as the case may be, of an arbiter, under the said Acts may be recorded in the Books of Council and Session for execution, and may be enforced accordingly.

107.—(1) The Secretary of State may by order—

(a) on his own initiative, repeal or amend any local enactment relating to the supply of water, or

(b) on the application of a water authority or a water development board, repeal or amend any local enactment relating to the supply of water—

(i) by or to the applicant, or

(ii) by any other water authority or board to premises in any area within the limits of supply of the applicant.

Repeal,
amendment
and adaptation
of local
enactments.

(2) The power conferred on the Secretary of State by the foregoing subsection shall include power to consolidate any such local enactments as aforesaid, with or without amendments.

PART IX

(3) Any order under this section may include such transitional, incidental, supplementary and consequential provisions as the Secretary of State may consider necessary or expedient.

(4) The provisions of this section shall have effect without prejudice to the exercise of any power to repeal, amend or adapt local enactments which is conferred by any other enactment, including any enactment contained in this Act.

(5) The provisions of Part I of Schedule 1 shall apply to orders made under this section on the application of a water authority or a water development board.

Transitional provisions and savings.

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

Interpretation.

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

“agricultural lands and heritages” has the like meaning as in the Rating and Valuation (Apportionment) Act 1928 ;

“apportionment scheme” has the meaning assigned to it by section 86 ;

“bridge authority” means the authority who are the highway authority in respect of the highway carried by the bridge ;

“Central Board” means the Central Scotland Water Development Board ;

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

(a) where the premises supplied with water abut on the part of the street in which the main is laid and the service pipe enters those premises otherwise than through the outer wall of a building abutting on the street and has a stopcock placed in those premises and as near to the boundary of that street as is reasonably practicable, so much of the service pipe as lies between the main and that stopcock ;

(b) in any other case, so much of the service pipe as lies between the main and the boundary of the part of the street in which the main is laid ;

and includes the ferrule at the junction of the service pipe with the main, and also—

(i) where the communication pipe ends at a stopcock, that stopcock ; and

1928 c. 44.

(ii) any stopcock fitted on the communication pipe between the end thereof and the main ;

“ constituent water authority ” has the meaning assigned to it by section 84(3) ;

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

“ contributing authority ” means—

(a) in relation to a water authority, any other regional council the whole or part of whose region is within the limits of supply of the water authority or in whose region water is supplied to premises by the water authority, and

(b) in relation to a water development board, a constituent water authority ;

“ domestic water rate ” and “ public water rate ” have the meanings assigned to them by section 39 ;

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

“ fishery district ” means a district for the purposes of the Salmon Fisheries (Scotland) Act 1862 ; and 1862 c. 97.

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

“ functions ” includes powers and duties ;

“ highway ” means a highway, road, street, or bridge for the maintenance and management of which a local or public authority is responsible ; and “ highway authority ” means the local or public authority responsible for the maintenance and management of a highway.

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

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

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PART IX

(2) Any reference in this Act to persons having the control or management of a street or bridge shall be construed as a reference in the case of a street or bridge maintainable at the public expense, to the authority who are the highway authority or, as the case may be, the bridge authority in respect thereof, and, in the case of any other street or bridge, to the authority or person responsible for the maintenance thereof, or, if no authority or person is responsible therefor, to the owners of the soil of the street or, as the case may be, of the structure of the bridge.

(3) In the construction of any enactment incorporated with this Act, the expressions “the promoters of the undertaking” or “the company”, and “the special Act”, shall be construed as meaning respectively the water authority and water development board, and this Act.

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

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

Further provisions as to communication pipes, etc.

110.—(1) Where any main is laid alongside and within 60 feet of the middle of a street, then, for the purposes of the definition of “communication pipe” contained in section 109(1), the land in which the main is laid, and any land between the main and the street, shall be deemed to form part of the street, and references in that definition to the part of the street in which the main is laid, and to the boundary of the street in which the main is laid, shall be construed accordingly:

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

(2) Where any main is laid as mentioned in subsection (1), the power of the water authority to lay service pipes, stopcocks and other fittings under paragraph 4 of Schedule 3 shall include power, with the consent of every owner and occupier of the land, and subject to payment of compensation for any damage done by the authority, to lay such pipes, stopcocks and fittings in, on or over any land which is deemed to form part of a street for the purposes specified in subsection (1).

(3) Any consent required for the purposes of subsection (2) shall not be unreasonably withheld, and any question whether such consent is, or is not, unreasonably withheld shall be referred to and determined by the Secretary of State; and any dispute as to the amount of compensation to be paid under subsection (2) shall be determined by arbitration in the manner provided by section 105.

(4) For the avoidance of doubt, it is hereby declared that the provisions of section 24(3) apply to any pipe laid before the commencement of this Act which, by virtue of this section, is deemed to be a communication pipe.

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

Saving for protective clauses in other Acts.

(a) any provision contained in a local enactment for the protection or benefit of any specified person or class of persons or body of persons whether incorporated or not, other than a provision with respect to the discharge of compensation water into any watercourse;

(b) any provision contained in a local enactment for conferring on or preserving to the public rights of enjoyment of air, exercise and recreation on land or rights of access to land for those purposes or for conferring any right of way.

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

Amendments and repeals.

(2) The enactments specified in Schedule 11 are hereby repealed to the extent specified in column 3 of that Schedule.

113.—(1) This Act may be cited as the Water (Scotland) Act 1980.

Short title and extent.

(2) This Act shall extend to Scotland only.

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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 the water authority, regional council, district council and water development board 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 and any river purification authority exercising functions in relation to any watercourse, from which water is taken under the rights transferred where the river purification authority are not the same authority as the water authority and on any public undertakers known by the Secretary of State to be authorised by any enactment to take or use water from any such watercourse ;

(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.

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

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 not exceeding 10 pence as the Secretary of State thinks reasonable.

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

15. If before the expiration of the 28 days referred to in paragraph 10 of this Schedule, or of 25 days from the publication of the said notice in the Edinburgh Gazette, or before the expiration of any period specified in notices given under the last foregoing paragraph, an objection is received by the Secretary of State from any authority or board or undertakers 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.

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

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

18. In this Part of this Schedule the expression "area affected by the order" means, in relation to any order, the limits of supply of the water authority, or the area of the water development board, to whom the order relates.

PART III

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

19. A water authority or water development board who propose to enter into an agreement to which this Part of this Schedule applies shall publish once at least in each of two successive weeks in one or more local newspapers circulating within their limits of supply

- SCH. 1
- (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.

Section 18.

SCHEDULE 2

ORDERS UNDER SECTION 17 AUTHORISING COMPULSORY ACQUISITION OF LAND

1845 c. 33.

1. The order shall incorporate the Lands Clauses Acts and section 6 of the 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.

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.

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 the water authority or water development board to acquire compulsorily any land which they would not have been so authorised to acquire if it had been made in terms of the draft submitted to or prepared by him.

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 :

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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, the water authority or water development board 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 the water authority or water development board 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.

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 Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947. 1947. c. 42.

SCHEDULE 3

Sections 22, 24.

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

PART I

Provisions as to breaking open streets, etc.

1. Subject to the provisions of this Part of this Schedule, a water authority and water development board may, within their limits of supply or area for the purpose of laying, constructing, inspecting, repairing, altering, renewing or removing mains, service pipes, plant or other works, and outside those limits of supply or area for the

Power to
break open
streets.

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SCH. 3 execute shall be repaid to them by the person by whom the notice was given and may be recovered by them from him :

Provided that, if under the provisions of this paragraph the authority lay 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 them.

(3) Notwithstanding anything in the foregoing provisions of this paragraph, an authority to whom such a notice as aforesaid is given may, within seven days after the receipt thereof, require the person giving the notice either to pay to them in advance the cost of the work, as estimated by their engineer, or to give security for payment thereof to their satisfaction, and, where they make 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 the authority exceeds the expenses which under the foregoing provisions of this paragraph they would be entitled to recover from the person giving the notice, the excess shall be repaid by them, and, if and so far as those expenses are not covered by the payment, they may recover the balance from him.

Power of
authority to
require
separate
service pipes.

7.—(1) Subject to the provisions of this paragraph the authority may require the provision of a separate service pipe for each house supplied, or to be supplied by them, with water.

(2) If, in the case of a house already supplied with water but not having a separate service pipe, the authority give notice to the owner of the house, requiring the provision of such a pipe, the owner shall within three months lay so much of the required pipe as will constitute a supply pipe and is not required to be laid in a street, and the authority 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 street 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, the authority may themselves execute the work which he was required to execute.

(4) The expenses reasonably incurred by the authority in executing the work which they are required by sub-paragraph (2) to execute, or which they are empowered by the last foregoing sub-paragraph to execute, shall be repaid to them by the owner of the house and may be recovered by them from him, but without prejudice to the rights and obligations as between themselves, of the owner and the occupier of the house.

(5) Where two or more houses are being supplied with water by a single service pipe, the authority shall not require the provision of separate service pipes for those houses until either—

(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. SCH. 3

8. Where any premises which are within the limits of supply abut on, or are situated near to, any street which is, as to the whole or a part of its width, outside those limits, the authority may for the purpose of supplying water to the owner or occupier of those premises exercise with respect to the whole width of the street the like powers of laying, inspecting, repairing, altering, renewing and removing service pipes with any necessary stopcocks and fittings and of breaking open the street for that purpose as are exercisable by them with respect to streets within the said limits, subject however to the like conditions and obligations.

Power to break open streets forming boundary of limits of supply.

9.—(1) On every service pipe laid after 16th May 1946 the authority shall, and on every service pipe laid before that date the authority may, fit a stopcock enclosed in a covered box, or pit, of such size as may be reasonably necessary.

Provisions as to position of stopcocks.

(2) Every stopcock fitted on a service pipe after 16th May 1946 shall be placed in such position as the authority deem most convenient :

Provided that—

- (a) a stopcock in private premises shall be placed as near as is reasonably practicable to the street from which the service pipe enters those premises ; and
- (b) a stopcock in a street shall, after consultation with the highway authority concerned, be placed as near to the boundary thereof as is reasonably practicable.

SCHEDULE 4

Sections 28, 29.

PROVISIONS TO BE INCORPORATED IN ORDERS RELATING TO WATER UNDERTAKINGS

PART I

INTERPRETATION

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: Definitions, etc.

- “ 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 Factories Act 1961 c. 34.
- “ fire authority ” has the same meaning as in the Fire Services Act 1947 c. 41.
- “ prescribed ” means prescribed by the special Act ;

SCH. 4

“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;

1878 c. 76.

“telegraphic line” has the same meaning as in the Telegraph Act 1878;

“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.

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 street no such limits are shown, the boundaries of the street (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.

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.

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:

SCH. 4
General
power to
construct
subsidiary
works.

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 telegraphic line belonging to or used by the Post Office or with telegraphic communication by means of any such line.

5.—(1) For the purpose of establishing telegraphic, telephonic or other electrical communication between their offices and any part of their works or between different parts of their works, the undertakers may lay and erect in, on or over any street and, with the consent of the owners and occupiers of any land, in, on or over that land, such wires, posts, conductors and other apparatus as they deem necessary and the provisions of the special Act relating to the breaking open of streets by the undertakers shall, with any necessary modification or adaptation, apply as respects any street in relation to the laying, erection and maintenance of any such wires, posts, conductors or other apparatus:

Power of
undertakers
to lay or
erect
telephone
wires, etc.

Provided that the undertakers shall not lay or erect any such wires, posts, conductors or other apparatus—

- (a) in any highway maintainable at the public expense which is within the limits of supply of those undertakers, except with the consent of the regional, islands or district council concerned, if that council is not the highway authority;
- (b) on or over such a highway, or in, on or over any other highway or any other land, except with the consent of the council and highway authority concerned;

and in either case, except in accordance with such conditions as the council or authority aforesaid may attach to their consent, but such consent shall not be unreasonably withheld nor shall unreasonable conditions be attached thereto, and any question whether a withholding of consent or a condition is reasonable or not shall be referred to an arbiter to be appointed, in default of agreement, by the Secretary of State.

(2) The undertakers shall at their own expense remove any wires, posts, conductors or other apparatus laid or erected by them under the provisions of this section if they are required to do so by the council or a highway authority for the purpose of enabling any widening or other improvement to be carried out to a street.

This subsection shall not apply to the removal of apparatus in a street or in controlled land for the purpose of authority's works as defined in section 21(3) of the Public Utilities Street Works Act 1950. 1950 c. 39.

SCH. 4

(3) Wires, posts, conductors or other apparatus laid or erected by the undertakers under the provisions of this section shall not be installed or worked in contravention of the provisions of the Wireless Telegraphy Acts 1949 to 1967, and shall be so constructed, maintained and used as to prevent interference with any telegraphic line belonging to or used by the Post Office or with telegraphic communication by means of any such line.

(4) Where the undertakers propose, in the exercise of their powers under this section, to lay or erect any wires, posts, conductors or other apparatus over, under or in the vicinity of any electric line belonging to any electricity undertakers, the undertakers shall take all reasonable precautions so as not injuriously to affect, whether by induction or otherwise, the working or use of, or the currents in, the electric line.

Any question which may arise between the undertakers and any electricity undertakers under this subsection shall be determined by an arbiter to be agreed between the undertakers and the electricity undertakers or failing agreement, to be appointed by the President of the Institution of Electrical Engineers, and the arbiter may direct the undertakers to make any alterations in their wires, posts, conductors or other apparatus so as to comply with the provisions of this subsection and the undertakers shall make those alterations accordingly.

1979 c. 11.

In this subsection the expressions "electric line" and "electricity undertakers" have the same respective meanings as in the Electricity (Scotland) Act 1979 and the Electricity (Supply) Acts 1882 to 1936.

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 £25.

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.

(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.

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 feu duties, ground annuals, rents or other annual or recurring payments shall, so far as applicable, apply in relation to such grants and to such servitudes and rights :

SCH. 4
Persons under disability may grant servitudes, etc.

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.

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.

Extinction of private rights of way.

(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.

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 :

Provisions as to compensation water.

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.

(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

SCH. 4

- (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 £50 in respect of each day on which the offence has been committed or has continued, and in the case of an offence under paragraph (b) of this subsection—

(i) on summary conviction, to a fine not exceeding £50 in respect of each such day; and

(ii) on conviction on indictment, to a fine in respect of each such day.

(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.

PART VI

MINERALS UNDERLYING WATERWORKS

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 coal, 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 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.

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.

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

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.

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

(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.

SCH. 4

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 above-mentioned 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 water-works, if those works had been constructed or maintained otherwise than by virtue of the special Act.

PART V

SCH. 4

SUPPLY OF WATER FOR PUBLIC PURPOSES

19. The undertakers shall, at the request of the fire authority 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.

Undertakers to fix and maintain fire hydrants on pipes.

20. As soon as any such hydrant is complete, the undertakers shall, if required by the fire authority, 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 fire authority.

Undertakers to deposit keys of hydrants at certain places.

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 fire authority.

Cost of hydrants.

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 street 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 the last but one foregoing section.

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

23. The undertakers shall allow any person to take without payment water for extinguishing fires from any pipe on which a hydrant is fixed.

Water to be taken to extinguish fires without charge.

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 streets and for supplying any public pumps, baths or washhouses.

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

(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 regional islands or district council or highway authority concerned and the undertakers.

PART VI

CONSTANCY AND PRESSURE OF SUPPLY

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 top-most storey of every building within the limits of supply:

Duty of undertakers as respects constant supply and pressure.

SCH. 4

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

26.—(1) The undertakers may require that—

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

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

(2) Where, in the case of any house—

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

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

Power to
require
provision of
cisterns in
certain cases.

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.

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

28. An authorised officer of the undertakers may, between the hours of eight in the forenoon and eight in the afternoon, on producing, if required, evidence of his authority, enter any premises supplied with water by the undertakers in order to ascertain if there be any waste or misuse of such water, and, if, after production of his authority, he is refused admittance to the premises or is obstructed in making his examination, the person refusing him admittance or so obstructing him shall be liable on summary conviction to a fine not exceeding £25. Power to enter premises to detect waste or misuse of water.

29.—(1) If the undertakers have reason to think that some injury to or defect in a supply 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. Power to repair supply pipes.

(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.

30.—(1) If any person wilfully or negligently causes or suffers any water fitting which he is liable to maintain to— Penalty for waste, etc., of water by non-repair of pipes, etc.

(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,

SCH. 4

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 £200.

(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.

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 £25, 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 £25.

(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 £25, without prejudice to the right of the undertakers to recover from him the value of the water misused.

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 £25, 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.

33. If any person either—

- (a) wilfully and without the consent of the undertakers, or
(b) negligently,

Penalty for interference with valves and apparatus.

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 £200 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.

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 £25, 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.

Penalty for extension or alteration of pipes, etc.

(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.

35.—(1) A person who has not obtained the consent of the undertakers shall not connect or disconnect any meter by means of which water supplied by the undertakers is intended to be, or has been, measured for the purposes of the payment to be made to them, but, if he requires such a meter to be connected or disconnected, shall give to the undertakers not less than 24 hours' notice of his requirements and of the time when the work can be commenced, and thereupon the undertakers shall carry out the necessary work and may recover from him the expenses reasonably incurred by them in so doing.

Meters to be connected, or disconnected by undertakers.

(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 £25.

SCH. 4
Meters, etc.,
to measure
water or
detect waste.

36. Subject to the provisions of the special Act with respect to the breaking open of streets, 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 street, 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 streets, tramways, sewers, pipes, wires and apparatus:

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

1878 c. 76.

(a) any telegraphic line belonging to or used by the Post Office, except in accordance with, and subject to, the provisions of the Telegraph Act 1878 ; or

1950 c. 39.

(b) any works or apparatus of any electricity undertakers, except in accordance with the provisions of the code in Part II of the Public Utilities Street Works Act 1950 ; or

(c) any pipes or apparatus of any gas undertakers, except under the supervision (if given) of an authorised officer of those undertakers and in accordance with plans approved by them or by such officer or in case of any difference as determined by the sheriff.

PART VIII

POLLUTION OF WATER BY 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—

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

(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—

SCH. 4

- (a) on summary conviction to a fine not exceeding £50 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.

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 £50, and to a further fine not exceeding £25 for each day during which his offence continues after conviction therefor.

Provision as to pollution by gas.

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:

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

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 to the persons having the control or management of the street or other place where they propose to open the ground, and 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 streets 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 street 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.

PART IX

GENERAL AND MISCELLANEOUS

40. A consumer who wishes the supply of water to his premises to be discontinued shall give not less than 24 hours' notice to the undertakers.

Notice of discontinuance

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

Duty of undertakers to give notice of certain works.

SCH. 4

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 £25 and to a further fine not exceeding £25 for each day on which the offence continues after conviction therefor.

Proceedings for offences.
1975 c. 21.

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 Criminal Procedure (Scotland) Act 1975.

(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 £25 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.

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—

- (a) 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;
- (b) to interfere with any bridge crossing any river, canal, dock, harbour or basin;
- (c) 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;

- (d) 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—

(i) whether any works which the undertakers propose to execute are such works as under the last foregoing subsection 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.

SCH. 4

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, and shall also within the said six months deposit such a copy with the sheriff clerk of every sheriff court district and with the clerk of the local authority of every district within which they supply, or propose to supply, water or have or propose to construct any waterworks.

Sections 77, 78.

SCHEDULE 5.

PROCEDURE FOR MAKING ORDERS UNDER PART VII

1.—(1) The applicants for an order under section 77 or 78 shall cause notice in writing of the application to be served on the persons specified in the following Table—

All orders.	(a) Every regional, islands or district council whose area would be affected by the order. (b) Such water authorities, if any, as the Secretary of State may direct.
Orders which suspend or modify an enactment.	Such persons, if any, as are specified by name in the enactment as being persons for whose protection it was enacted.
Orders which suspend or modify an agreement.	The parties to the agreement other than the applicants.
Orders concerning the taking of water from a source or the discharge of compensation water.	(a) Every regional, islands or district council and river purification authority and fishery district board in whose area the source, or the site at which compensation water is to be discharged, is situated. (b) Any navigation authority exercising functions over any watercourse affected by the order.
Orders which authorise the execution of any works.	(a) Every regional, islands or district council within whose area the works are situated. (b) If the order authorises the execution of works in, under or over a watercourse, the river purification authority and fishery district board.

Orders which authorise the occupation and use of land.	Every owner, lessee and occupier of the land.
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Orders which prohibit or limit the taking of water from an inland navigation.	Any named persons to whom the prohibition or limitation applies.
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(2) The applicants shall also cause a notice of the application to be published—

- (a) in one or more local newspapers circulating within the limits of supply of the applicants, and
- (b) in one or more local newspapers circulating within the limits of supply of any other water authority on whom notice is to be served in accordance with the foregoing Table, and
- (c) where the application is for an order concerning the taking of water from a source or the discharge of compensation water, in one or more local newspapers circulating within the area of every regional, islands or district council within whose area the source or the site at which compensation water is to be discharged is situated.

(3) Where the application is for an order under section 77 the applicants shall in addition to the notices specified in sub-paragraph (2) cause a notice of the application to be published in the Edinburgh Gazette.

(4) A notice under this paragraph—

- (a) shall state the general effect of the application, and
- (b) shall specify a place within the limits of supply of the applicants where a copy of any relevant map or plan may be inspected by any person free of charge at all reasonable hours within a period of seven days from the date on which it is served or, in the case of publication of a notice in pursuance of any of the foregoing provisions of this paragraph, from the date of the publication, and
- (c) shall state that objections to the application may be made to the Secretary of State within seven days from the date on which it is served or, in the case of publication of a notice in pursuance of any of the foregoing provisions of this paragraph, from the date of the publication, and
- (d) in the case of an application for an order authorising the occupation and use of land, shall specify the land to which the application relates.

2. A notice which is required under this Schedule to be served on any person may be served either—

- (a) by delivering it to the person on whom it is to be served, or

SCH. 5

- (b) by leaving it, or sending it in a pre-paid letter addressed to that person, at his usual or last-known residence, or
- (c) in the case of an incorporated company or body, by delivering it to their clerk or secretary at their registered or principal office, or by sending it in a pre-paid letter addressed to him at that office, or
- (d) in the case of a notice to be served on the owner, lessee or occupier of any land, if it is not practicable after reasonable inquiry to ascertain the name and address of the person on whom it should be served, or if the land is unoccupied, by addressing it to the person concerned by the description of "owner", "lessee" or "occupier" of the land (describing it) to which it relates, and delivering it to some person on the land, or if there is no person on the land to whom it can be delivered, by fixing it, or a copy of it, to some conspicuous part of the land.

3.—(1) If any objection is duly made with respect to the application and is not withdrawn, then, subject to the provisions of this paragraph, the Secretary of State shall before making the order either cause a public local inquiry to be held or afford to any person by whom any objections have been duly made and not withdrawn an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose, and if any person by whom an objection has been made avails himself of the opportunity of being heard, the Secretary of State shall afford to the applicant for the order, and to any other persons to whom it appears to the Secretary of State expedient to afford it, an opportunity of being heard on the same occasion.

(2) Notwithstanding anything in sub-paragraph (1), the Secretary of State may require any person who has made an objection to state in writing the grounds thereof, and may disregard the objection for the purposes of this paragraph if the Secretary of State is satisfied—

- (a) that the objection relates exclusively to matters which can be dealt with on a reference under Schedule 6 or by any person by whom compensation is to be assessed, or
- (b) in a case where the order is one confined to the extension of a period specified in a previous order, that the objection is one that has in substance been made with respect to the application for that previous order.

(3) Subject to the requirements of this paragraph, the Secretary of State, upon being satisfied that the proper notices have been published and served, may, if he thinks fit, make the order in respect of which the application is made with or without modifications.

(4) The Secretary of State may hold a public local inquiry on any application for an order under section 77 or 78 notwithstanding that he is not required to do so by this paragraph and the provisions of

section 98 shall apply to an inquiry under this paragraph as it applies to an inquiry under Schedule I.

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4. After an order under section 77 or 78 has been made, the water authority on whose application it was made shall cause to be published (in the manner in which notice of the application was required under paragraph 1(2) and (3) to be published) a notice stating that the order has been made and naming a place where a copy thereof may be inspected.

SCHEDULE 6

Section 77.

COMPENSATION FOR THE TAKING OF WATER OR
OCCUPATION OF LAND

1.—(1) Compensation in respect of the following matters, that is to say—

- (a) the taking of water from a source under the authority of an order made under section 77,
- (b) the taking, under the authority of such an order, of water from a source otherwise than in accordance with a restriction which has been suspended or modified by the order,
- (c) the entry upon or occupation or user of land under the authority of such an order,

shall be made by the water authority in relation to whom the order is made to the owners and occupiers of, and all other parties interested in, the source or land, as the case may be, or injuriously affected by the taking of the water or by the entry upon or occupation or user of the land, as the case may be, for damage sustained by them by reason of the matters aforesaid.

(2) Compensation shall be made by the authority in relation to whom an order is made prohibiting, or imposing a limitation on, the taking of water from an inland navigation, to the persons to whom the prohibition or limitation applies, for damage sustained by them by reason of the prohibition or limitation.

(3) In assessing compensation to be made under sub-paragraph (1)(a) or (b) or (2), the Lands Tribunal for Scotland (hereafter in this Schedule referred to as “the Lands Tribunal”) may, if it thinks fit, have regard to the amount of water which, on an equitable apportionment of the water available from the source between the claimant, the authority and other persons taking water from the source, might fairly be apportioned to the claimant.

2.—(1) Compensation shall be made by the water authority in relation to whom an order is made suspending or modifying an obligation as respects the taking of water from a source, or as respects

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the discharge of compensation water, to persons who but for the order would have been entitled to institute proceedings in respect of a failure to comply with the obligation, for damage sustained by them by reason of water being taken without compliance with the obligation, or of compensation water not being discharged, or being discharged otherwise than in accordance with the obligation.

(2) In assessing compensation to be made under this paragraph the Lands Tribunal may, if it thinks fit, have regard to the amount of water which, under the conditions existing by reason of the shortage of rain, would have been available to the claimant during the period during which the deficiency of supplies of water is continued, if the undertaking in relation to which the obligation was imposed had never been carried out.

3.—(1) A claim for compensation under this Schedule shall be made by serving upon the water authority a notice in writing stating the grounds of the claim and the amount claimed.

(2) A claim for compensation under this Schedule may be made at any time not later than three months after the end of the period for which the order authorises the taking of water or, as the case may be, suspends or modifies the restriction or obligation in question.

(3) Any question as to the right of a claimant to recover compensation, or as to the amount of compensation recoverable, shall in default of agreement be referred to, and determined by, the Lands Tribunal.

(4) Where a claim is made during the continuance of an order, the Lands Tribunal may, if it thinks fit, award a sum representing the damage which is likely to be sustained by the claimant in respect of each day on which water is taken, or is taken otherwise than in accordance with a restriction or obligation, or on which compensation water is not discharged or is discharged otherwise than in accordance with an obligation, or on which a prohibition or limitation on the taking of water is in effect, as the case may be.

Sections 4, 82.

SCHEDULE 7

PROCEDURE FOR MAKING AN ORDER UNDER SECTION 4 OR 82

1. Before making an order under section 4 or 82 the Secretary of State shall prepare a draft order, and shall cause a notice to be published in the *Edinburgh Gazette* and in such other manner as he thinks best for the purpose of the informing of persons affected by the order—

- (a) stating the general effect of the order ;
- (b) specifying the places where copies of the draft order, and any map relating thereto, may be inspected by any person free of charge at all reasonable times during a period of not less than 28 days beginning with the date on which the notice is published as aforesaid ; and

(c) stating that any person affected by the order may within that period, by notice in writing to the Secretary of State, object to the making of the order.

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2. The Secretary of State shall cause a copy of a notice published in pursuance of the foregoing paragraph to be served on every water authority and board which he has consulted in pursuance of section 100(2).

3. If no objection is duly made under paragraph 1 or if all objections so made are withdrawn, the Secretary of State may proceed to make the order either in the form of the draft order or, subject to paragraph 5, as amended by him.

4. If any objection duly made as aforesaid is not withdrawn, and the Secretary of State does not sustain the objection, the order shall not be made unless approved by a resolution of each House of Parliament.

5. The Secretary of State shall not make an amendment order unless an amended draft order has been prepared by him and the provisions of paragraphs 1 to 4 shall apply to the amended draft order as they apply to a draft order.

SCHEDULE 8

Section 84.

PROVISIONS AS TO WATER DEVELOPMENT BOARDS

Corporate status of boards

1. A board shall be a body corporate with perpetual succession and a common seal.

Terms of office of members of boards

2.—(1) The first members of a board shall come into office on the day on which the board comes into existence, or, in the case of such a member for any reason appointed after that day, on the day on which the appointment is made.

(2) Any other member shall come into office on the day following that on which the member he replaces vacates office, or, in the case of such a member for any reason appointed after that day, on the day on which the appointment is made.

(3) Subject to the following provisions of this Schedule, a member shall vacate office at the end of June in the year in which the election of members of regional councils next take place:

Provided that the Central Board shall be reconstituted on 1st July 1982 and thereafter quadriennially.

(4) Where the constitution of a board is varied by order any members who are required by or under the order to vacate their office shall do so notwithstanding the foregoing provisions of this paragraph.

SCH. 8

Vacation of office by members of boards

3. A member of a board may resign his office at any time by notice in writing signed by him and delivered to the proper officer of the board and the resignation shall take effect on such date as may be stated in the notice, or, if no date is so stated, three weeks after the delivery of the notice.

4. A member of a board shall vacate his office if he—

- (a) ceases to be a member of the constituent water authority from which he was appointed in pursuance of section 84, or
- (b) has, for a period of 12 consecutive months, been absent from meetings of the board, otherwise than by reason of illness or some other cause approved during that period by the board:

Provided that for the purposes of head (b) of this paragraph, the attendance of a member at a meeting of any committee of the board shall be treated as attendance at a meeting of the board.

Appointments to fill casual vacancies

5. Where, for any reason whatsoever, the place of a member of a board becomes vacant before the end of his term of office, the vacancy shall be filled by the appointment of a new member by the constituent water authority by whom the vacating member was appointed.

Disqualification for, and re-appointment to, membership of boards

6.—(1) Subject to the following provisions of this paragraph, a person shall be disqualified for appointment as a member of a board if he is a paid officer or servant of the board.

(2) For the purposes of the foregoing sub-paragraph, a person shall not be regarded as a paid officer or servant of a board by reason only that expenses incurred by him in the performance of his duties are defrayed by the board.

7. Subject to the provisions of this Act, a vacating member of a board shall be eligible for re-appointment.

First meetings of boards

8. The first meeting of a board shall be held on such day, and at such time and place, and shall be convened by such person as may be determined by the Secretary of State.

Chairman

9. The chairman of a board shall be elected by the board from the members of the board.

10. The election of the chairman shall be the first business transacted at the first meeting of the board and, thereafter, at the first meeting of the board held after each reconstitution of the board,

and at any such meeting until the chairman is elected the person by whom under paragraph 8 the meeting was convened, or the proper officer of the board, as the case may be, shall preside.

Appointment of committees

11.—(1) A board may appoint from their number such committees for any such purpose as the board consider necessary or desirable.

(2) A board may delegate to a committee appointed under this paragraph, with or without restrictions or conditions, as they think fit, any of the functions of the board.

Members of committees

12. The number of members of a committee appointed under this Schedule, and the terms of office of the members thereof, shall be fixed by the board.

Proceedings of boards and committees

13. The proceedings of a board, or of any committee appointed under this Schedule, shall not be invalidated by any vacancy in their number or by any defect in the appointment, or the qualification for appointment, of any person as a member, or as chairman or vice-chairman, of the board or committee.

14.—(1) A board may make standing orders with respect to—

(a) the proceedings and conduct (including quorum, place of meeting and notices to be given of meetings) of the board or any committee appointed by the board under this Schedule; and

(b) subject to paragraphs 9 and 10, the appointment of a chairman and a vice-chairman of the board or any such committee.

(2) Subject to standing orders made under this paragraph, the proceedings of any committee appointed under this Schedule shall be such as the committee may determine.

15. At any meeting of a board or of a committee appointed under this Schedule, each member shall have one vote:

Provided that in the event of an equality of votes—

(a) as to the appointment of the chairman of a board, the matter shall be decided by lot, and

(b) in regard to any other matter, the chairman or other member presiding at the meeting shall have a casting vote as well as a deliberative vote.

16. The provisions of sections 38 to 42 of the Local Government (Scotland) Act 1973 (restrictions on voting) shall apply in relation to members of a board, or of any committee appointed under this Schedule, as those provisions apply in relation to members of local authorities, as if, for the references therein to the local authority, there were substituted references to the board. 1973 c. 65

SCH. 8

17.—(1) Subject to the next following sub-paragraph, the minutes of proceedings of meetings of a board shall be open to the inspection of any local government elector in any part of the board's area on payment of a fee not exceeding five pence, and any such local government elector may make a copy of, or extracts from, any such minutes.

(2) The foregoing sub-paragraph does not apply to any part of such minutes which contains information with respect to any manufacturing process or trade secret obtained in the exercise of powers under this Act.

Authentication of documents

1973 c. 65.

18. The provisions of section 194 of the Local Government (Scotland) Act 1973 (execution of deeds by local authority and use of seal) shall apply to a board as those provisions apply to a council as if for references therein to a council there were substituted references to the board.

19.—(1) Any notice or other document which a board are required or authorised to give, make or issue by or under this Act or any other enactment may be signed on behalf of the board by the proper officer of the board or by any other officer authorised by them in writing to sign documents of the particular kind or, as the case may be, the particular document and may be withdrawn by notice similarly authenticated, and any document purporting to bear the signature of the proper officer of the board, or of a person expressed to be duly authorised by them to sign such a document, or that particular document, shall be deemed, until the contrary is proved, to be duly given, made or issued by authority of the board.

(2) In this paragraph the expression "signature" includes a facsimile of a signature by whatever process reproduced.

(3) Where any enactment or instrument made under an enactment makes, in relation to any document or class of documents, provision with respect to the matters dealt with by one of the two foregoing sub-paragraphs, that sub-paragraph shall not apply in relation to that document or class of documents.

Officers and servants

20. A board shall appoint such officers and servants as the board think fit and may pay the officers and servants appointed by them such reasonable remuneration as they may determine.

21. The provisions of sections 66 (security to be taken in relation to officers), 67 (members of local authorities not to be appointed as officers) and 68 (disclosure by officers of interest in contracts) of the Local Government (Scotland) Act 1973 shall apply in relation to officers of a board and other persons as those provisions apply in relation to officers of a local authority and other persons, as if for any reference therein to the local authority there were substituted a reference to the board.

Expenses, subscriptions and contributions

SCH. 8

22. A board may defray—

(a) any expenses incurred in the reception and entertainment by way of official courtesy of—

(i) distinguished persons residing in the area of the board, or visiting that area or any works outside the area operated by the board, or

(ii) persons representative of, or connected with, other boards or similar services, whether inside or outside the United Kingdom,

or in the supply of information to any such persons ;

(b) any reasonable expenses incurred in connection with ceremonies connected with the performance by the board of any of their functions.

23. A board may pay reasonable subscriptions, whether annually or otherwise, or contributions to the funds—

(a) of any association formed for the purpose of consultation as to the common interests of boards and the discussion of matters connected with the performance of functions of boards or similar services ;

(b) of associations of officers of boards or similar services, being associations formed for the purpose mentioned in the foregoing sub-paragraph,

and may make reasonable contributions for furthering research in matters with which boards and their officers are concerned.

General

24. The following provisions of the Local Government (Scotland) Act 1973 shall apply to a board for the purposes of this Act as those provisions apply to a local authority for the purposes of that Act—

(a) section 81 (contracts of local authorities),

(b) section 189(2) (legal proceedings),

(c) section 190 (service of legal proceedings, notices, etc.),

(d) section 191 (claims in sequestrations and liquidations),

(e) section 192 (service of notices),

(f) section 196 (misnomers),

(g) section 208(1) (provisions as to Sundays, etc),

(h) paragraph 7(1) of Schedule 7 (minutes of proceedings receivable in evidence).

25. In this Schedule “ board ” means a water development board, and “ area ” means the area of such a board ; and “ proper officer ” in relation to any purpose and any board, means an officer appointed for that purpose by that board.

Section 108.

SCHEDULE 9

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.

(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.

Section 112.

SCHEDULE 10

AMENDMENT OF ENACTMENTS

PART I

General

Any reference in any enactment, order, scheme, regulations, award or byelaws passed or made before the coming into operation of this Act to a local water authority shall, unless the context otherwise requires, be construed as a reference to a water authority.

PART II

*Specific enactments**Fire Services Act 1947 (c. 41)*

In section 36(2), for the words "local water 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)

SCH. 10

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

Agricultural Holdings (Scotland) Act 1949 (c. 75)

In sections 70(2) and 82(1), for the words "55", "1946", "local authority" and "Part III" (wherever those words occur) there shall be substituted respectively the words "65", "1980", "islands or district council" and "Part V".

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".

Radioactive Substances Act 1960 (c. 34)

In Schedule 1, in paragraph 14, for the words "60, 61 and 64" and "1946" there shall be substituted respectively the words "70, 71 and 75" and "1980".

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

In section 3(d), for the words "five" and "1949" there shall be substituted respectively the words "42" and "1980".

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

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

SCH. 10

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".

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", "71(6)", "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 respectively the words "65", "66", "67", "1980" and "Part V".

Civil Aviation Act 1971 (c. 75)

In Schedule 5, in paragraph 4(1), for the word "1946" there shall be substituted the word "1980"; and in paragraph 4(2)(b), for the words "regional water board" and "1967" there shall be substituted respectively the words "water authority" and "1980".

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

SCH. 10

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”.

Water Act 1973 (c. 37)

In section 38(1), for the word “1967” there shall be substituted the word “1980”.

Local Government (Scotland) Act 1973 (c. 65)

In section 106(1)(c), for the word “1967” there shall be substituted the word “1980”.

In section 111(1)(e), for the word “1967” there shall be substituted the word “1980”.

In section 112(6), for the word “1949” there shall be substituted the word “1980”.

In section 118(5), for the word “1967” there shall be substituted the word “1980”.

In section 121(1), for the words “56(3)” and “1946” there shall be substituted respectively the words “66(3)” and “1980”.

In section 202(1A), for the words “60 or 61” and “1946” there shall be substituted respectively the words “70 or 71” and “1980”.

In section 235(1), in the definition of “water authority”, for the words “148 of this Act” there shall be substituted the words “109(1) of the Water (Scotland) Act 1980”.

In section 236(2), for paragraph (e) there shall be substituted—
“(e) The Water (Scotland) Act 1980”.

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”.

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

In Schedule 1, in paragraph 1(2), for the words “148 of the Act of 1973”, “34” and “1967” there shall be substituted respectively the words “109(1) of the Water (Scotland) Act 1980”, “109(1)” and “1980”.

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”.

Airports Authority Act 1975 (c. 78)

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

Section 112.

SCHEDULE 11

REPEALS

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 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).

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