



Water (Scotland) Act 1980

1980 CHAPTER 45

PART III **S**

POWERS OF WATER AUTHORITIES FOR THE PURPOSES OF WATER SUPPLY

Modifications etc. (not altering text)

- C1** Pt. III (ss. 12 - 38): power to apply conferred (1.10.1991) by [Natural Heritage \(Scotland\) Act 1991](#) (c. 28, SIF 46:1, 130), s. 20(10), [Sch. 7 para. 5\(1\)\(b\)](#)

12 Supply of water to premises outwith limits of supply. **S**

^{F1}

Textual Amendments

- F1** S. 12 repealed (1.4.2002) by [Water Industry \(Scotland\) Act 2002](#) (asp 3), s. 71(1), [Sch. 6 para. 9](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

13 Supply of water in bulk. **S**

- (1) [^{F2}Scottish Water]^{F3} may enter into an agreement with any other persons ^{F4} . . . , for the giving by those other persons, and the taking by [^{F5}Scottish Water]^{F3}, of a supply of water in bulk for any period and on any terms and conditions, ^{F6} . . .
- (2) ^{F7}
- (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 ^{F8} . . . made under this section, [^{F9}Scottish Water]^{F10} may exercise, ^{F11} . . . ^{F10} the like powers with respect to laying mains and breaking open [^{F12}roads] as are exercisable by [^{F13}it] under this Act for the purpose of laying mains, but subject to the like conditions and obligations.

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- (4) ^{F14}
- (5) ^{F14}
- (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 [^{F15}Scottish Water]^{F16}.

Textual Amendments

- F2** Words in s. 13(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F3** Words in s. 13(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(7)(a), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F4** Words in s. 13(1) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(2)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F5** Words in s. 13(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(2)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F6** Words in s. 13(1) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(2)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F7** S. 13(2) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(3)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F8** Words in s. 13(3) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(4)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F9** Words in s. 13(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F10** Words in s. 13(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(7)(c)(i), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F11** Words in s. 13(3) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(4)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F12** Word in s. 13(3) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(7)(c)(ii)**; S.I. 1994/2850, **art. 3**
- F13** Word in s. 13(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(4)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F14** S. 13(4)(5) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(5)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F15** Words in s. 13(6) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(6)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F16** Words in s. 13(6) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), **Sch. 13 para. 119(7)(d)**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

[^{F17}13A Supply of water for use outwith Scotland. **S**

- (1) [^{F18}Scottish Water] may, if for the time being [^{F19}it is] satisfied that such supplies of water as are available to [^{F20}it] are likely to be more than sufficient to enable [^{F20}it] to fulfil [^{F21}its] duties as respects the supply of water to premises in Scotland, enter into an agreement with any other person to give him, on such terms and conditions as [^{F22}it thinks] and whether or not in bulk, a supply of water for use outwith Scotland.
- (2) For the purposes of laying any pipes or installing any apparatus connected therewith, being pipes or apparatus required for giving a supply of water in pursuance of an agreement entered into under subsection (1) above, [^{F23}Scottish Water] may exercise,

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^{F24} . . . , the like powers with respect to laying mains or breaking open roads as are exercisable by [^{F25}it] under this Act for the purposes of laying mains, but subject to the like conditions and obligations.]

Textual Amendments

- F17** S. 13A inserted (1.4.1996) by 1994 c. 39, s. 107 (with s. 74(4)); S.I. 1996/323, art. 4(1)(a), **Sch. 1**
- F18** Words in s. 13A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 11(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F19** Words in s. 13A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 11(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F20** Word in s. 13A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 11(a)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F21** Word in s. 13A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 11(a)(iv)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F22** Words in s. 13A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 11(a)(v)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F23** Words in s. 13A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 11(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F24** Words in s. 13A(2) repealed (1.4.2002 subject to art. 3 of the commencing S.S.I.) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 11(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F25** Word in s. 13A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 11(b)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

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

[^{F26}Scottish Water] 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 [^{F27}Scottish Water], and the execution by him of any works necessary for that purpose.

Textual Amendments

- F26** Words in s. 14 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 12(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F27** Words in s. 14 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 12(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

^{F28} **15** **S**

Textual Amendments

- F28** S. 15 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(8), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

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16 Powers of survey and search for water on land. **S**

- ^{F29}(1) The Scottish Ministers may, on application made to them by Scottish Water, authorise it to survey, in accordance with this section—
- (a) any land which it proposes to acquire for the purposes of its water undertaking or proposed water undertaking; or
 - (b) any land in, on or over which it is proposed to lay a water main.]
- (2) Notice of any application under subsection (1) shall be given by ^{F30}Scottish Water^{F31} 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 ^{F32}Scottish Water is] authorised to survey any land under this section, any officer of ^{F33}Scottish Water^{F31} 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 ^{F34}Scottish Water] from any liability in respect of that damage to which ^{F35}it] would be subject if the works had been carried out otherwise than in the exercise of statutory powers.

Textual Amendments

- F29** S. 16(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 13(2)** (with s. 67); [S.S.I. 2002/118](#), **art. 2(3)**
- F30** Words in s. 16(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 13(3)** (with s. 67); [S.S.I. 2002/118](#), **art. 2(3)**
- F31** Words in s. 16(1)-(3)(8) repealed (1.4.1996) by [1994 c. 39](#), s. 180(1)(2), **Sch. 13 para. 119(9)(b)**, **Sch. 14**; [S.I. 1996.323](#), **art. 4(1)(c)(d)**, **Sch. 2**
- F32** Words in s. 16(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 13(4)(a)** (with s. 67); [S.S.I. 2002/118](#), **art. 2(3)**

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- F33** Words in s. 16(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 13\(4\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F34** Words in s. 16(8) substituted (1.4.2002 subject to art. 3 of the commencing S.S.I.) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 13\(5\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F35** Word in s. 16(8) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 13\(5\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

Modifications etc. (not altering text)

- C2** S. 16 extended by [Gas Act 1986 \(c. 44, SIF 44:2\), s. 3, Sch. 7 para. 2\(1\)\(xxxviii\), Sch. 8 para. 33](#)

17 Acquisition of water rights. **S**

- (1) [^{F36}Scottish Water]^{F37} may acquire by agreement rights to take water from any stream or other source ^{F38} . . .
- (2) The Secretary of State may, on the application of [^{F39}Scottish Water]^{F37}, by order provide for the compulsorily acquisition by [^{F40}it] 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 [^{F41}Scottish Water]^{F37} 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 [^{F42}Scottish Water]^{F37} under this Part will result in the impounding of any stream—
- (a) ^{F43}
- (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 [^{F44}Scottish Water]^{F37}, and shall incorporate in the order the appropriate provisions of [^{F45}Part III of Schedule 4] subject to such modifications and adaptations as he thinks fit.
- (4) Where the acquisition of water rights by [^{F46}Scottish Water]^{F37} under this Part will, in the opinion of the Secretary of State, substantially reduce the flow of any stream—
- (a) ^{F47}
- (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) [^{F48}Subject to subsections (5A) and (5B)] in assessing the quantity of compensation water to be provided under any such ^{F49} . . . order or in determining the extent to which and the circumstances in which water may be taken under any such ^{F49} . . . order, the Secretary or 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;

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- (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.

[^{F50}(5A) Before making an order for the compulsory acquisition of water rights, and in considering the matters referred to in subsections (3) to (5), the Scottish Ministers shall—

- (a) obtain and have regard to the advice of the Scottish Environment Protection Agency on matters relating to the protection of the water environment (and in particular as to the extent to, and the circumstances in, which water may be taken and the quantity of compensation water to be provided); and
- (b) have regard to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003 (asp 3).

(5B) In the event that the provisions of an order for the compulsory acquisition of water rights which makes provision on matters relating to the protection of the water environment and the conditions of an authorisation granted under the Water Environment (Controlled Activities)(Scotland) Regulations 2005 differ, and cannot reasonably be reconciled, the relevant provisions of that order shall be treated as modified to the extent necessary to be consistent with the conditions of that authorisation.]

(6) ^{F51}

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

Textual Amendments

- F36** Words in s. 17(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 14\(2\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F37** Words in s. 17(1)-(4) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(10)(a)-(d), [Sch. 14](#); S.I. 1996/323, [art. 4\(1\)\(c\)\(d\), Sch. 2](#)
- F38** Words in s. 17(1) omitted (1.4.2006) by virtue of [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\), art. 2, Sch. Pt. IV](#) {para. 4(2)(a)} (with Sch. Pt. III para. 6)
- F39** Words in s. 17(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 14\(3\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F40** Word in s. 17(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 14\(3\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F41** Words in s. 17(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 14\(3\)\(c\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F42** Words in s. 17(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 14\(4\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F43** S. 17(3)(a) and the following "or" omitted (1.4.2006) by virtue of [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\), art. 2, Sch. Pt. IV](#) {para. 4(2)(b)(i)} (with Sch. Pt. III para. 6)
- F44** Words in s. 17(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 14\(4\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

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- F45** Words in s. 17(3) substituted (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 2, **Sch. Pt. IV** {para. 4(2)(b)(ii)} (with Sch. Pt. III para. 6)
- F46** Words in s. 17(4) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 14(4)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F47** S. 17(4)(a) and the following "or" omitted (1.4.2006) by virtue of [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 2, **Sch. Pt. IV** {para. 4(2)(c)} (with Sch. Pt. III para. 6)
- F48** Words in s. 17(5) inserted (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 2, **Sch. Pt. IV** {para. 4(2)(d)(i)} (with Sch. Pt. III para. 6)
- F49** Words in s. 17(5) omitted (1.4.2006) by virtue of [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 2, **Sch. Pt. IV** {para. 4(2)(d)(ii)} (with Sch. Pt. III para. 6)
- F50** S. 17(5A)(5B) inserted (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 2, **Sch. Pt. IV** {para. 4(2)(e)} (with Sch. Pt. III para. 6)
- F51** S. 17(6) omitted (1.4.2006) by virtue of [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 2, **Sch. Pt. IV** {para. 4(2)(f)} (with Sch. Pt. III para. 6)

18 **Compulsory acquisition of land for water works.** **S**

- (1) Subject to the provisions of this section, an order under section 17 may authorise [^{F52}Scottish Water] to acquire compulsorily such land as may be necessary for the purposes of the order, being land which [^{F53}Scottish Water]^{F54} could be authorised for to acquire under [^{F55}section 47 of the [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#)].
- (2) The provisions of Schedule 2 shall have effect in relation to an order under section 17 which authorises any such acquisition of land.

Textual Amendments

- F52** Words in s. 18(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 15(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F53** Words in s. 18(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 15(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F54** Words in s. 18(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(11)(a), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F55** Words in s. 18(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 15(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

19 ^{F56} **S**

Textual Amendments

- F56** S. 19 repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\)](#), ss. 25, 41, Sch. 2 para. 39, **Sch. 4**

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^{F57}20 **S**

Textual Amendments

F57 S. 20 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(12), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

^{F58}21 **Power to carry out works.** **S**

[Without prejudice to any other powers which ^{F60}it] may have, ^{F61}Scottish Water] ^{F59}(1)] may, for the purposes of providing a supply of water under this Act and subject to its provisions—

- (a) construct, alter, acquire by purchase, lease or otherwise, or renew or maintain, waterworks;
- (b) so acquire any undertaking belonging to persons, ^{F62}. . . , who are supplying or are authorised to supply water;
- (c) so acquire premises to be used for the purposes of ^{F63}Scottish Water] and maintain such premises;
- (d) contract with any person for a supply by him of water in bulk or otherwise; or
- (e) erect and maintain a house for the use of a person employed by ^{F64}it] for the purposes of ^{F65}its] undertaking.

[For the avoidance of doubt, all waterworks constructed in pursuance of subsection (1) ^{F66}(2) above (whether before or after the commencement of this subsection)vest in Scottish Water.]]

Textual Amendments

F58 S. 21 substituted (1.4.1996) by 1994 c. 39, s. 108 (with s. 74(4)); S.I. 1996/323, art. 4(1)(a), **Sch. 1**

F59 S. 21 renumbered as s. 21(1) (6.3.2006) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 32(1)(a) (with s. 35(2)); S.S.I. 2006/55, **art. 2**

F60 Word in s. 21 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 16(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F61 Words in s. 21 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 16(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F62 Words in s. 21(b) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 16(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F63 Words in s. 21(c) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 16(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F64 Word in s. 21(e) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 16(e)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F65 Word in s. 21(e) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 16(e)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F66 S. 21(2) inserted (6.3.2006) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 32(1)(b) (with s. 35(2)); S.S.I. 2006/55, **art. 2**

22 **Power to break open streets.** **S**

^{F67}(1)] The provisions of Part I of Schedule 3 shall have effect in relation to the breaking open of ^{F68}roads] by ^{F69}Scottish Water] ^{F70} for the purpose of carrying out any works which

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[^{F71}it is] authorised to execute by or under this Act or any local enactment incorporating any provisions of Schedule 4.

- [^{F72}(2) Paragraph 1 of Schedule 3 has effect in relation to works carried out by any person—
- (a) in pursuance of an authorisation under section 23A(1), or
 - (b) in connection with the management, maintenance or renewal of a main or communication pipe laid by that person in pursuance of such an authorisation and vested in that person,
- as it has in relation to works carried out by Scottish Water.]

Textual Amendments

- F67** S. 22(1): s. 22 renumbered as s. 22(1) (10.7.2008) by [Water Environment and Water Services \(Scotland\) Act 2003 \(asp 3\)](#), s. 38(1), **sch. 4 para. 1(a)**; S.S.I. 2008/269, art. 2(d)
- F68** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 81(4)**
- F69** Words in s. 22 substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 17(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F70** Words in s. 22 repealed (1.4.1996) by 1994 c. 33, s. 180(1)(2), Sch. 13 para. 119(13), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F71** Words in s. 22 substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 17(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F72** S. 22(2) inserted (10.7.2008) by [Water Environment and Water Services \(Scotland\) Act 2003 \(asp 3\)](#), s. 38(1), **sch. 4 para. 1(b)**; S.S.I. 2008/269, art. 2(d)

23 Power to lay mains, etc. **S**

- (1) [^{F73}Scottish Water] or ^{F74} ... may for the purposes of [^{F75}its] functions lay a main—
- (a) in, under or over any [^{F76}roads] or under any cellar or vault below any [^{F76}roads] after giving reasonable notice to [^{F76}—
 - (i) where the road is a public road, the roads authority; and
 - (ii) in any other case, the authority or person responsible for the maintenance of the road, or, if no authority or person is so responsible, to the owners of the solum of the road,], and
 - (b) in, on or over any land not forming part of a [^{F77}road], 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.
- [^{F78}(1ZA) Section 192 of the Local Government (Scotland) Act 1973 (c.65)(service of notices) shall apply to notices served by Scottish Water under subsection (1) above relating to land as it applies to notices served by a local authority relating to premises.]
- [^{F79}(1A) If within two months after the service of a notice under subsection (1)(b) above the owner or occupier objects to [^{F80}Scottish Water] about the proposed works (and that objection is not withdrawn), [^{F81}Scottish Water] shall not proceed to lay the main but shall refer the matter by summary application to the sheriff, who may—
- (a) grant consent to the proposed works, either unconditionally or subject to such terms and conditions as he thinks just; or
 - (b) withhold his consent;
- and the decision of the sheriff on the matter shall be final.]

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- (2) Where [^{F82}Scottish Water]^{F74} ... in the exercise of [^{F83}its] powers under this section lay a main in, on or over any land not forming part of a [^{F84}road], or inspect, repair, maintain, alter, renew or remove a main laid in or over any such land, [^{F85}it] 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.
- [^{F86}(2A) In relation to a main not vested in Scottish Water, Scottish Water may recover from the person in whom the main is vested any expenses reasonably incurred by Scottish Water under subsection (1) or (2) in connection with the inspection, repair, maintenance, alteration, renewal or removal of the main.]
- [^{F86}(2B) In relation to a main laid by any person in pursuance of an authorisation under section 23A(1), subsections (1) and (2) of this section, so far as relating to the inspection, repair, maintenance, alteration, renewal or removal of a main, apply to that person as they apply to Scottish Water.]
- (3) [^{F87}Scottish Water]^{F74} ... may erect and maintain in any [^{F88}road] notices indicating the position of underground water fittings used for controlling the flow of water through [^{F89}its] 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.
- [^{F90}(4) In the case of works in respect of which notice is required to be given under section 114 of the New Roads and Street Works Act 1991 (notice of starting date of road works), notice duly given to a person in accordance with that section and section 156 of that Act (service of notice) shall be treated as reasonable notice for the purposes of subsection [^{F88}(1)(a)] above.]
- [^{F91}(5) For the avoidance of doubt, all mains laid in pursuance of subsection (1) above (whether laid before or after the commencement of this subsection) vest in Scottish Water.]

Textual Amendments

- F73** Words in s. 23(1) substituted (1.4.2002) by *Water Industry (Scotland) Act 2002* (asp 3), s. 71(1), **Sch. 6 para. 18(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F74** Words in s. 23(1)-(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(14)(a)(b)(c), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F75** Word in s. 23(1) substituted (1.4.2002) by *Water Industry (Scotland) Act 2002* (asp 3), s. 71(1), **Sch. 6 para. 18(2)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F76** Words substituted by *Roads (Scotland) Act 1984* (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(5)(a)(i)**
- F77** Word substituted by *Roads (Scotland) Act 1984* (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(5)(a)(ii)**
- F78** S. 23(1ZA) inserted (1.4.2002) by *Water Industry (Scotland) Act 2002* (asp 3), s. 71(1), **Sch. 6 para. 18(3)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F79** S. 23(1A) inserted (1.4.1996) by 1994 c. 39, **s. 109** (with s. 74(4)); S.I. 1996/323, art. 4(1)(a), **Sch. 1**
- F80** Words in s. 23(1A) substituted (1.4.2002) by *Water Industry (Scotland) Act 2002* (asp 3), s. 71(1), **Sch. 6 para. 18(4)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F81** Words in s. 23(1A) substituted (1.4.2002) by *Water Industry (Scotland) Act 2002* (asp 3), s. 71(1), **Sch. 6 para. 18(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F82** Words in s. 23(2) substituted (1.4.2002) by *Water Industry (Scotland) Act 2002* (asp 3), s. 71(1), **Sch. 6 para. 18(5)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

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- F83** Word in s. 23(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 18\(5\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F84** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\), s. 156\(1\), Sch. 9 para. 81\(5\)\(b\)](#)
- F85** Word in s. 23(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 18\(5\)\(c\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F86** S. 23(2A)(2B) inserted (10.7.2008 for the insertion of s. 23(2B)) by [Water Environment and Water Services \(Scotland\) Act 2003 \(asp 3\), s. 38\(1\), sch. 4 para. 2](#); S.S.I. 2008/269, [art. 2\(e\)](#)
- F87** Words in s. 23(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 18\(6\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F88** Words in s. 23(3)(4) substituted (1.4.1996) by 1994 c. 39, s. 180(1), [Sch. 13 para. 119\(14\)\(c\)\(ii\)\(d\)](#); S.I. 1996/323, [art. 4\(1\)\(c\)](#)
- F89** Word in s. 23(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 18\(6\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F90** S. 23(4) inserted (1.1.1993) by [New Roads and Street Works Act 1991 \(c.22, SIF 59, 108\), s. 168\(1\), Sch. 8, Pt. IV, para. 108\(4\)](#); S.I. 1992/2990, [art. 2\(2\), Sch. 2](#)
- F91** S. 23(5) inserted (6.3.2006) by [Water Environment and Water Services \(Scotland\) Act 2003 \(asp 3\), s. 32\(2\)](#) (with s. 35(2)); S.S.I. 2006/55, [art. 2](#)

[^{F92}23A **Laying of mains and communication pipes by persons other than Scottish Water** **S**

- (1) Without prejudice to sections 23 and 24 (including any power under those sections to authorise the laying of mains or communication pipes on its behalf), Scottish Water may authorise a person to lay a main or communication pipe which is to connect with a main vested in it—
 - (a) in, under or over any road or under any cellar or vault below any road, or
 - (b) in, on or over any land which does not form part of a road and is not land as respects which that person is owner, lessee or occupier.
- (2) Where Scottish Water gives an authorisation to any person under subsection (1) in relation to a main, subsections (1) to (2) of section 23, so far as relating to the laying of a main shall apply in respect of that person as they apply in respect of Scottish Water.
- (3) Where—
 - (a) a main or communication pipe (not being a main pipe or laid by or on behalf of Scottish Water) is laid by any person, and
 - (b) the main or pipe connects with a main vested in Scottish Water,the main or, as the case may be, the communication pipe shall vest in Scottish Water.
- (4) Notwithstanding subsection (3), Scottish Water may, before the completion of a main or communication pipe to which that subsection applies, determine that the main or pipe, or any part of it, shall vest in the person who laid it and that that person shall have sole responsibility for its management, maintenance and renewal.
- (5) Scottish Water shall give notice of a determination under subsection (4) to the person who laid the main or communication pipe.
- (6) Where—
 - (a) a main or communication pipe (not being a main or pipe laid by or on behalf of Scottish Water) is laid by any person, and
 - (b) the main or pipe does not connect with a main vested in Scottish Water,

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the main or, as the case may be, the communication pipe shall vest in the person who laid it, who shall have sole responsibility for its management, maintenance and renewal.

- (7) Notwithstanding subsections (4) and (6), Scottish Water may at any time enter into an agreement under which the main or communication pipe in question, or any part of it, shall vest in it.
- (8) An agreement under subsection (7) relating to a main or communication pipe to which subsection (3) applies—
- (a) is subject to—
 - (i) the condition that the main or pipe shall vest in Scottish Water only if it complies with the construction standards specified by virtue of section 23B, so far as applicable,
 - (ii) such further conditions as Scottish Water may require to be included in the agreement by virtue of section 23C, and
 - (b) shall not take effect until the person who laid the main or pipe provides such security as Scottish Water may reasonably require for the performance of that person's obligations under the agreement by virtue of paragraph (a)(ii).]

Textual Amendments

F92 Ss. 23A-23C inserted (10.7.2008) by [Water Environment and Water Services \(Scotland\) Act 2003 \(asp 3\)](#), **ss. 31, 38(1)** (with s. 35(2)); S.S.I. 2008/269, art. 2(b)

[^{F92}23B Construction standards for mains and communication pipes to vest in Scottish Water **S**

- (1) In relation to a main or communication pipe to which subsection (3) of section 23A applies, the construction standards referred to in subsection (8)(a)(i) of that section are such standards as the Scottish Ministers may, by regulations, specify.
- (2) The standards which may be specified in regulations under subsection (1) include standards specified in or under other enactments.
- (3) Regulations under subsection (1) may make different provision in relation to different cases or descriptions of case.
- (4) Before making regulations under subsection (1) the Scottish Ministers must consult—
 - (a) Scottish Water, and
 - (b) such other persons as they consider appropriate.]

Textual Amendments

F92 Ss. 23A-23C inserted (10.7.2008) by [Water Environment and Water Services \(Scotland\) Act 2003 \(asp 3\)](#), **ss. 31, 38(1)** (with s. 35(2)); S.S.I. 2008/269, art. 2(b)

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[^{F92}23C Vesting conditions for mains and communication pipes **S**

- (1) For the purposes of subsection (8)(a)(ii) of section 23A, Scottish Water may require the inclusion in an agreement under subsection (7) of that section of conditions (“vesting conditions”) as to—
 - (a) any sum to be paid by Scottish Water to the person who laid the main or communication pipe in respect of its laying,
 - (b) the liability of that person to pay Scottish Water sums in respect of Scottish Water’s costs in relation to the main or pipe, including in particular the costs of—
 - (i) maintaining, repairing and renewing the main or pipe and such water mains, communication pipes and other waterworks constructed, and work carried out, as are mentioned in sub-paragraph (iii),
 - (ii) connecting the main or pipe to a main vested in Scottish Water,
 - (iii) constructing such water mains, communication pipes and other waterworks, and carrying out such other work, as Scottish Water considers necessary in consequence of the connection.
- (2) The Scottish Ministers may by regulations make provision as to—
 - (a) the provisions to be included, by virtue of subsection (1) of this section, as vesting conditions in an agreement under section 23A(7),
 - (b) cases in relation to which subsection (1) of this section does not apply, or applies with modifications.
- (3) Regulations under subsection (2) may, in particular, make provision—
 - (a) for determining the sum (if any) to be paid by Scottish Water by virtue of subsection (1)(a),
 - (b) for determining the liability, by virtue of subsection (1)(b), of the person who laid the main or communication pipe by reference to such matters, criteria and methods of calculation as the regulations may specify,
 - (c) as to when sums due under the vesting conditions are payable,
 - (d) as to the security which Scottish Water is entitled to require under section 23A(8)(b).
- (4) Regulations under subsection (2) may make different provision in relation to different descriptions of person and different cases or descriptions of case.]

Textual Amendments

F92 Ss. 23A-23C inserted (10.7.2008) by [Water Environment and Water Services \(Scotland\) Act 2003 \(asp 3\)](#), ss. 31, 38(1) (with s. 35(2)); S.S.I. 2008/269, art. 2(b)

24 Communication and supply pipes. **S**

- (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 [^{F93}road].
- (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

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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 [^{F93}road][^{F94}and is not, by virtue of any of subsections (5) to (8) below, vested in them] and may recover from the owner of the premises 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 of the premises [^{F95}and to the terms and conditions of any such agreement as is mentioned in subsection (8) below].

[^{F96}(5) Where the laying of a supply pipe is completed after such day as the Secretary of State may under this subsection by order appoint, so much of that pipe as may lie between a communication pipe with which it connects and the curtilage of the premises supplied shall, on such completion, vest in the water authority in whom is vested the communication pipe as shall any apparatus used wholly or mainly in connection with that supply pipe; and a supply pipe in so far as so lying is, together with any apparatus so used in connection with it, referred to in the following provisions of this section as a “relevant supply pipe”.

- (6) Subject to subsection (7) below, on such day as the Secretary of State may by order appoint, a relevant supply pipe which is not then vested in any water authority (and whose laying is complete) shall vest in the water authority in whom the communication pipe is vested.

- (7) Subsection (6) above shall have no effect in relation to any relevant supply pipe in respect of which notice is both given and not withdrawn, within the period of three months before the day appointed under that subsection—

- (a) to the water authority in question by the person (or as the case may be any one of the persons) in whom the pipe is, or will immediately before that day be, vested stating that he does not wish the pipe to vest in the water authority under that subsection; or
- (b) to such person (or as the case may be persons) by the water authority stating that the pipe is inappropriate for the purpose of supplying water to the premises, whether by reason of its state of repair or otherwise,

but at any time after the appointed day the person, or as the case may be persons, in whom the pipe is vested may by notice specify a day on which he desires (or they desire) that the pipe shall vest in the authority and if the pipe is on that specified day appropriate for the purpose of supplying water to the premises it shall vest accordingly.

- (8) If a relevant supply pipe does not vest in a water authority by virtue of subsection (6) or (7) above, the pipe may nevertheless vest by agreement in the authority—

- (a) on such terms and conditions; and
- (b) as from such day after the appointed day,

as the person (or persons) and the water authority consider appropriate.

- (9) The water authority shall, at their own expense, carry out any necessary work of maintenance, repair or renewal of relevant supply pipes vested in them by virtue of any of subsections (5) to (7) above; but this subsection is without prejudice to the terms and conditions of any such agreement as is mentioned in subsection (8) above.

- (10) Any dispute arising under subsection (7) above as to whether—

- (a) a notice under paragraph (b) of that subsection should be withdrawn as unjustified;

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- (b) apparatus is used wholly or mainly in connection with a supply pipe; or
- (c) on a specified day a relevant supply pipe is appropriate for the purpose of supplying water to the premises,

shall be referred by the person or persons in whom the pipe is vested to the Secretary of State, who may determine the dispute himself or, if he thinks fit, refer it for determination by arbitration.]

Textual Amendments

- F93** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\), s. 156\(1\), Sch. 9 para. 81\(6\)](#)
- F94** Words in s. 24(4) inserted (1.4.1996) by [1994 c. 39, s. 110\(a\)\(i\) \(with s. 74\(4\)\); S.I. 1996/323, art. 4\(1\)\(a\), Sch. 1](#)
- F95** Words in s. 24(4) added (1.4.1996) by [1994 c. 39, s. 110\(a\)\(ii\) \(with s. 74\(4\)\); S.I. 1996/323, art. 4\(1\)\(a\), Sch. 1](#)
- F96** S. 24(5)-(10) added (1.4.1996) by [1994 c. 39, s. 110\(b\) \(with s. 74\(4\)\); S.I. 1996/323, art. 4\(1\)\(a\), Sch. 1](#)

[^{F97}24A Keeping of map showing water mains, etc. **S**

- (1) [^{F98}Scottish Water] shall keep deposited at [^{F99}its] principal office a map showing and distinguishing so far as is reasonably practicable all water mains, communication pipes and supply pipes which are vested in [^{F100}it] by virtue of this Act or of [^{F101}the Water Industry (Scotland) Act 2002 (asp 3)]; and [^{F102}Scottish Water] shall provide reasonable facilities at that office for inspection of the map by any person and shall permit a copy of the map, or of an extract of it, to be taken by a person on his paying such reasonable amount as [^{F102}Scottish Water] may determine.
- (2) [^{F103}Scottish Water] shall keep deposited at such of [^{F104}its] offices, other than [^{F104}its] principal office, as [^{F105}it considers] appropriate, a copy relevant to the office in question of part of the map mentioned in subsection (1) above; and [^{F106}Scottish Water] shall provide the like facilities and permission in relation to the copy part, at the office at which that copy is deposited, as, under subsection (1) above, [^{F107}it does] in relation to the map mentioned in that subsection at [^{F104}its] principal office.
- (3) For the purposes of subsection (2) above, a copy is relevant to an office if it is of such part of the map mentioned in subsection (1) above as appears to [^{F108}Scottish Water] to be appropriate having regard to the geographical location of that office.]

Textual Amendments

- F97** S. 24A inserted (1.4.1996) by [1994 c. 39, s. 111 \(with s. 74\(4\)\); S.I. 1996/323, art. 4\(1\)\(a\), Sch. 1](#)
- F98** Words in s. 24A(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 19\(2\)\(a\) \(with s. 67\); S.S.I. 2002/118, art. 2\(3\)](#)
- F99** Word in s. 24A(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 19\(2\)\(b\) \(with s. 67\); S.S.I. 2002/118, art. 2\(3\)](#)
- F100** Words in s. 24A(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 19\(2\)\(c\) \(with s. 67\); S.S.I. 2002/118, art. 2\(3\)](#)
- F101** Words in s. 24A(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 19\(2\)\(d\) \(with s. 67\); S.S.I. 2002/118, art. 2\(3\)](#)
- F102** Words in s. 24A(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 19\(2\)\(e\) \(with s. 67\); S.S.I. 2002/118, art. 2\(3\)](#)

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- F103** Words in s. 24A(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 19\(3\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F104** Word in s. 24A(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 19\(3\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F105** Words in s. 24A(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 19\(3\)\(c\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F106** Words in s. 24A(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 19\(3\)\(d\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F107** Words in s. 24A(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 19\(3\)\(e\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F108** Words in s. 24A(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 19\(4\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

^{F109}24B Works in connection with metering **S**

- (1) This section applies where, in relation to any premises (“the premises concerned”), the conditions specified in subsection (2) are satisfied.
- (2) The conditions referred to in subsection (1) are that—
 - (a) Scottish Water is supplying or proposes to supply water to the premises,
 - (b) such supply is or is to be by meter, and
 - (c) there is a service pipe which is connected with a water main vested in Scottish Water and by which a supply of water is or could be provided to those premises.
- (3) Where this section applies, Scottish Water may serve a notice on the owner of the premises concerned requiring the execution, within such period of not less than 3 months as the notice shall specify, of such of the works mentioned in subsection (4) as the notice may specify.
- (4) The works referred to in subsection (3) are, in relation to the premises concerned—
 - (a) works consisting of the installation and connection of any meter for use in determining the quantity of water supplied to the premises,
 - (b) where a supply of water is or could be provided by the service pipe referred to in subsection (2)(c) to other premises as well as the premises concerned, works consisting of the installation, for any purpose connected with the installation or connection of such a meter, of a separate service pipe for the premises concerned, but only to the extent that such a pipe will constitute a supply pipe and is not required to be laid in a road,
 - (c) works for the purpose of maintaining, repairing, disconnecting or removing—
 - (i) any meter which has been installed for use in determining the quantity of water supplied to the premises, or
 - (ii) any pipes or apparatus installed in the course of any works specified in this section, and
 - (d) any other works appearing to Scottish Water to be necessary or expedient for any purpose connected with the carrying out of any works specified in paragraph (a), (b) or (c), including the installation and connection of any pipes or other apparatus on the premises and the alteration or removal of any of the plumbing of the premises.
- (5) In the case of any of the works mentioned in paragraph (a) of subsection (4) and paragraph (c)(i) of that subsection so far as relating to maintenance and repair of a

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meter, Scottish Water may execute the works itself instead of requiring the owner, under subsection (3), to execute the works.

- (6) If an owner upon whom a notice has been served under subsection (3) fails to comply with it, Scottish Water may itself execute the works which the owner was required by the notice to execute.
- (7) Where Scottish Water has served a notice under that subsection requiring the execution of the works mentioned in paragraph (b) of subsection (4), it shall, within 14 days after those works have been executed, lay so much of the separate service pipe referred to in that paragraph as will constitute a communication pipe or a supply pipe to be laid in a road and shall make all necessary connections.
- (8) Scottish Water may recover from the owner of the premises concerned any expenses reasonably incurred by it in executing any works under subsection (5), (6) or (7).
- (9) Subsection (8) is without prejudice to the rights and obligations, as between themselves, of the owner and occupier of the premises.]

Textual Amendments

F109 S. 24B inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 64 (with s. 67); S.S.I. 2002/118, art. 2(3)

25 Power of authority to provide public wells. **S**

- (1) A [^{F110}local authority] or [^{F111} Scottish Water] may construct and maintain public pumps, wells, stand-pipes or other works for supplying water for the use of the inhabitants within their [^{F110}area] or, as the case may be, [^{F112}its] limits of supply.
- (2) [^{F113}A local authority] may erect and maintain or authorise to be erected and maintained in any [^{F114}road] or public place within their area ^{F115}any drinking fountain or trough; but [^{F116}where the Secretary of State is the roads authority][^{F117}there shall be no such erection by the [^{F118}the local authority] without [^{F119}his] consent] which consent shall not be unreasonably withheld.

Textual Amendments

- F110** Words in s. 25(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 119(15)(a); S.I. 1996/323, art. 4(1)(c)
- F111** Words in s. 25(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), Sch. 6 para. 20(a) (with s. 67); S.S.I. 2002/118, art. 2(3)
- F112** Word in s. 25(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), Sch. 6 para. 20(b) (with s. 67); S.S.I. 2002/118, art. 2(3)
- F113** Words in s. 25(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 119(15)(b)(i); S.I. 1996/323, art. 4(1)(c)
- F114** Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), Sch. 9 para. 81(7)(a)
- F115** Words in s. 25(2) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(15)(b)(ii), Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2
- F116** Words in s. 25(2) inserted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 119(15)(b)(iii); S.I. 1996/323, art. 4(1)(c)
- F117** Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), Sch. 9 para. 81(7)(b)

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- F118** Words in s. 25(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(15)(b)(iv)**; S.I. 1996/323, **art. 4(1)(c)**
- F119** Word in s. 25(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(15)(b)(v)**; S.I. 1996/323, **art. 4(1)(c)**

26 Power to close, or restrict use of, wells. **S**

If a [^{F120}local authority][^{F121}are or Scottish Water is] satisfied that—

- ^{F122}(a) any public well, drinking fountain or other work within their [^{F120}area] or, as the case may be, [^{F123}its] limits of supply and vested in them [^{F124}or, as the case may be, it] 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.

Textual Amendments

- F120** Words in s. 26 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(16)(a)(b)**; S.I. 1996/323, **art. 4(1)(c)**
- F121** Words in s. 26 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 21(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F122** By Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 21(b)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**, it is provided that the words "or, as the case may be, it" be inserted after "they" in s. 26(a) (1.4.2002)
- F123** Word in s. 26(a) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 21(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F124** Words in s. 26(a) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 21(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

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

- (1) If [^{F125}a local authority] 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 ^{F126} 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, [^{F125}they] 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 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 [^{F125}local authority].

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- (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 ^{F125}local authority], authorise ^{F125}them] to do whatever may be necessary for giving effect to the order, and any expenses reasonably incurred by ^{F125}them] in so doing may be recovered by them from the person in default.

Textual Amendments

- F125** Words in s. 27(1)-(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(17)**; S.I. 1996/323, **art. 4(1)(c)**
- F126** Words in s. 27(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), **Sch. 13 para. 119(17)(a)(ii)**, **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**

28 Water works code. **S**

- (1) For the purpose of enabling ^{F127}Scottish Water]^{F128} 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—
- (a) ^{F129}
 - (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 ^{M1}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 ^{F130}Scottish Water]^{F128}, 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.

Textual Amendments

- F127** Words in s. 28(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 22(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F128** Words in s. 28(1)(2) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), **Sch. 13 para. 119(18)**, **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**
- F129** S. 28(1)(a) repealed by Telecommunications Act 1984 (c. 12, SIF 96), ss. 2, 109, **Sch. 7 Pt. I**
- F130** Words in s. 28(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 22(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

Marginal Citations

- M1** 1845 c. 33.

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29 Applications of enactments by order. S

- (1) The Secretary of State may by any order under section ^{F131} . . . 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.
- (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 [^{F132}Scottish Water]^{F133}, 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 [^{F134}Scottish Water], and the provisions of Part II of that Schedule shall apply to an order so made without any such application.

Textual Amendments

F131 Words in s. 29(1) repealed (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 23(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F132 Words in s. 29(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 23(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F133 Words in s. 29(2)(3) repealed (1.4.1996) by [1994 c. 39](#), s. 180(1)(2), **Sch. 13 para. 119(19)**, **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**

F134 Words in s. 29(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 23(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

^{F135}**30** **S**

Textual Amendments

F135 S. 30 repealed (1.4.1996) by [1994 c. 39](#), s. 180(1)(2), **Sch. 13 para. 119(20)**, **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**

31 Consultation with authorities in England. S

- (1) Where the limits of supply of [^{F136}Scottish Water] adjoin any part of England and it appears to [^{F137}Scottish Water] 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, [^{F138}Scottish Water] shall, insofar as [^{F139}it considers] it appropriate to do so, consult with
 - [^{F140}(a)] the [^{F141}water undertakers] and other appropriate authorities in that part of England with a view to securing the best use of that water in the public interest [^{F142}, and
 - [the Scottish Environment Protection Agency.]

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F143(b)

- (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.

Textual Amendments

- F136** Words in s. 31(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 24(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F137** Words in s. 31(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 24(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F138** Words in s. 31(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 24(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F139** Words in s. 31(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 24(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F140** “(a)” inserted (1.10.1991) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1, 130), s. 27(1), **Sch. 10 para. 9(2)(a)**
- F141** Words substituted by Water Act 1989 (c. 15, SIF 130), s. 190, **Sch. 25 para. 60(1)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F142** Word “;and” and s. 31(1)(b) inserted (1.10.1991) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1, 130), s. 27(1), **Sch. 10 para. 9(2)(b)**
- F143** S. 31(1)(b) substituted (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 34(2)**; S.I. 1996/186, **art. 3**

32 Power of water undertakers to supply water to water authorities. **S**

- (1) Any person supplying water, whether under statutory powers or not, may—
- (a) contract to supply water to [F144Scottish Water]; or
 - (b) F145 sell or lease to [F144Scottish Water] all or any of his waterworks and all his rights, powers and privileges attaching thereto but subject to all liabilities attaching thereto.

F146(2)

Textual Amendments

- F144** Words in s. 32(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 25** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F145** Words in s. 32(1)(b) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(21)(a), **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**
- F146** S. 32(2) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(21)(b), **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**

33 Temporary discharge of water into watercourses. **S**

- (1) Subject to this section [F147 where Scottish Water is carrying out or is] 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 [F148its] undertaking [F149, it] may cause the water therein to be discharged into any available watercourse, and for that purpose may lay and maintain in any [F150road] or in any land not forming

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- part of a [^{F150}road], ^{F151} . . . ^{F152}, all necessary discharge pipes and apparatus; and such statutory provisions with respect to the breaking open of [^{F150}roads] as are applicable to [^{F153}Scottish Water]^{F152} shall, with any necessary modifications and adaptations, apply accordingly.
- (2) The power conferred by subsection (1) to lay and maintain discharge pipes and apparatus in land, other than land forming part of a [^{F154}road], 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 [^{F155}Scottish Water]^{F156} and the authority or board concerned, [^{F155}Scottish Water]^{F156} 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 [^{F157}its] intentions
 - [^{F158}(i)] to the fishery district board of any fishery district within which
 - ^{F159}(ii)
 any watercourse into which the water is to be discharged is situated; [^{F160}and (ii) to the Scottish Environment Protection Agency.]
 - (b) have due regard to any representations which may be made to [^{F161}it] 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 [^{F162}it] as not likely to injure the river, canal or navigation or the banks thereof, or interfere with traffic thereon.
- (4) Whenever [^{F163}Scottish Water proposes] to discharge water on a number of occasions during a period, the giving by [^{F164}it] of a general notice to that effect, accompanied by such particulars as it is reasonably practicable for [^{F164}it] to give, shall constitute sufficient compliance by [^{F165}it] 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 [^{F166}Scottish Water]^{F167} within seven days after the making of the application for the approval.
- (7) If [^{F168}Scottish Water is] requested by—
- (a) the owner or occupier or any land which abuts on a watercourse at a point within three miles of any work of [^{F169}Scottish Water]^{F167} 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

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- (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, [^{F169}Scottish Water]^{F167} shall enter his name and address in a register kept by [^{F170}it] 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 [^{F171}it is](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 [^{F172}Scottish Water discharges] water during an emergency, [^{F173}it] 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) [^{F174}Scottish Water]^{F167} shall take all necessary steps to secure that any water discharge by [^{F175}it] 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 [^{F176}public road].
- (11) In the exercise of the powers conferred by this section [^{F177}Scottish Water]^{F167} 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.

Textual Amendments

- F147** Words in s. 33(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 26(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F148** Word in s. 33(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 26(2)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F149** Word in s. 33(1) inserted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 26(2)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F150** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 81(8)(a)**
- F151** Words in s. 33(1) repealed (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 26(2)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F152** Words in s. 33(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(22)(a), **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**
- F153** Words in s. 33(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), **Sch. 6 para. 26(2)(e)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F154** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 81(8)(b)**

Changes to legislation: Water (Scotland) Act 1980, Part III is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F155** Words in s. 33(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(3)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F156** Words in s. 33(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(22)(b), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F157** Word in s. 33(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(3)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F158** "(i)" inserted (1.10.1991) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1, 130), s. 27(1), **Sch. 10 para. 9(3)(a)**
- F159** S. 33(3)(a)(ii) and preceding word "and" (which were inserted (1.10.1991) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1, 130), s. 27(1), **Sch. 10 para. 9(3)(b)**) repealed (1.4.1996) by 1995 c. 25, s. 120, Sch. 22 para. 34(3)(a), **Sch. 24**; S.I. 1996/186, **art. 3**
- F160** S. 33(3)(a): sub-para. (ii) and preceding word "and" inserted at the end of para. (a) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 34(3)(b)**; S.I. 1996/186, **art. 3**
- F161** Word in s. 33(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(3)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F162** Words in s. 33(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(3)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F163** Words in s. 33(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(4)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F164** Word in s. 33(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F165** Words in s. 33(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F166** Words in s. 33(6)(b) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(5)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F167** Words in s. 33(6)(b)(7)(9)(11) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(22)(c), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F168** Words in s. 33(7) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(6)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F169** Words in s. 33(7) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(6)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F170** Word in s. 33(7) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(6)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F171** Words in s. 33(7) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(6)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F172** Words in s. 33(8) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(7)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F173** Word in s. 33(8) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(7)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F174** Words in s. 33(9) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(8)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F175** Word in s. 33(9) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(8)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F176** Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(8)(c)**
- F177** Words in s. 33(11) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(9)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

34 Persons supplying water to supply to authority. **S**

Any person supplying water within the limits of supply of [^{F178}Scottish Water] shall furnish such supply to [^{F179}Scottish Water] as [^{F180}it] may require and as it is reasonably practicable for that person to provide, and that on such terms and conditions as may be

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agreed between him and [^{F181}Scottish Water] ; and, if they fail to agree, the amount of the supply and 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.

Textual Amendments

- F178** Words in s. 34 substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 27\(a\)](#) (with s. 67); [S.S.I. 2002/118, art. 2\(3\)](#)
- F179** Words in s. 34 substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 27\(b\)](#) (with s. 67); [S.S.I. 2002/118, art. 2\(3\)](#)
- F180** Word in s. 34 substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 27\(c\)](#) (with s. 67); [S.S.I. 2002/118, art. 2\(3\)](#)
- F181** Words in s. 34 substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 27\(d\)](#) (with s. 67); [S.S.I. 2002/118, art. 2\(3\)](#)

35 Power to supply water fittings. S

(1) [^{F182}Scottish Water] may, on the request of any person to whom [^{F183}it supplies or proposes] to supply water, supply to him ^{F184} any such water fittings as are required or allowed by [^{F185}its] byelaws and may, on such request, install, repair or alter (but not manufacture) any such water fittings, whether supplied by [^{F186}it] or not, and may provide any materials and do any work required in connection with installation, repair or alteration of water fittings.

[^{F187}Scottish Water] 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 [^{F188}supplied otherwise than by sale] by [^{F189}Scottish Water] bear either a distinguishing plate affixed thereto, or a distinguishing brand or other mark conspicuously impressed or made thereon, sufficiently indicating [^{F189}Scottish Water] as the actual owners of the fittings, those fittings—

- (a) shall, notwithstanding that they 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, [^{F190}Scottish Water] ; and
- (b) shall not be subject to [^{F191}any] 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.

^{F192}(4)

[^{F193}(5) If any person—

- (a) so interferes with a meter used by [^{F194}Scottish Water] in determining the amount of any charges fixed in relation to any premises as intentionally or recklessly to prevent the meter from showing, or from accurately showing, the volume of water supplied to those premises; or
- (b) carries out, without the consent of [^{F195}Scottish Water] , any works which he knows are likely to affect the operation of such a meter or which require the disconnection of such a meter; or

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- (c) otherwise wilfully or negligently injures or suffers to be injured any water fitting belonging to [^{F194}Scottish Water] ,
 he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.]

Textual Amendments

- F182** Words in s. 35(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 28\(a\)\(i\)](#) (with s. 67); [S.S.I. 2002/118, art. 2\(3\)](#)
- F183** Words in s. 35(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 28\(a\)\(ii\)](#) (with s. 67); [S.S.I. 2002/118, art. 2\(3\)](#)
- F184** Words in s. 35(1) ceased to have effect (1.4.1993) by virtue of [Local Government Finance Act 1992 \(c. 14\), s. 107, Sch. 11, Pt. IV, para. 30\(a\)](#) (with s. 118(1)(2)(4)); [S.I. 1993/575, art. 2\(b\)](#)
- F185** Word in s. 35(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 28\(a\)\(iii\)](#) (with s. 67); [S.S.I. 2002/118, art. 2\(3\)](#)
- F186** Word in s. 35(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 28\(a\)\(iv\)](#) (with s. 67); [S.S.I. 2002/118, art. 2\(3\)](#)
- F187** Words in s. 35(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 28\(a\)\(v\)](#) (with s. 67); [S.S.I. 2002/118, art. 2\(3\)](#)
- F188** Words in s. 35(2) substituted (1.4.1993) by [Local Government Finance Act 1992 \(c. 14\), s. 107, Sch. 11, Pt. IV, para. 30 \(b\)](#) (with s. 118(1)(2)(4)); [S.I. 1993/575, art. 2\(b\)](#)
- F189** Words in s. 35(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 28\(b\)](#) (with s. 67); [S.S.I. 2002/118, art. 2\(3\)](#)
- F190** Words in s. 35(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 28\(b\)](#) (with s. 67); [S.S.I. 2002/118, art. 2\(3\)](#)
- F191** Word in s. 35(2)(b) substituted (30.12.2002) by [Debt Arrangement and Attachment \(Scotland\) Act 2002 \(asp 17\), ss. 61, 64\(2\), Sch. 3 Pt. 1 para. 12](#) (with s. 63)
- F192** S. 35(4) repealed (1.4.1996) by [1994 c. 39, s. 180\(1\)\(2\), Sch. 13 para. 119\(23\), Sch. 14](#); [S.I. 1996/323, art. 4\(1\)\(c\)\(d\), Sch. 2](#)
- F193** S. 35(5) substituted (1.4.1993) by [Local Government Finance Act 1992 \(c. 14\), s. 107, Sch. 11, Pt. IV, para. 30\(c\)](#) (with s. 118(1)(2)(4)); [S.I. 1993/575, art. 2\(b\)](#)
- F194** Words in s. 35(5) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 28\(c\)\(i\)](#) (with s. 67); [S.S.I. 2002/118, art. 2\(3\)](#)
- F195** Words in s. 35(5) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 28\(c\)\(ii\)](#) (with s. 67); [S.S.I. 2002/118, art. 2\(3\)](#)

36 Power to execute work on behalf of owner or occupier. **S**

[^{F196}Scottish Water] 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.

Textual Amendments

- F196** Words in s. 36 substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 29](#) (with s. 67); [S.S.I. 2002/118, art. 2\(3\)](#)

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37 Power to require occupier to permit works to be executed by owner. **S**

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.

38 Entry of premises. **S**

- (1) Subject to the provisions of this section, an authorised officer of [^{F197}Scottish Water]^{F198} . . . shall, on producing if so required some duly authenticated document showing his authority, have a right to enter any premises at all reasonable hours—
- [^{F199}(aa) where the conditions set out in subsection (2) of section 24B are satisfied in relation to the premises, for the purpose of carrying out any survey or tests to determine—
- (i) whether the carrying out of any works by virtue of paragraph (a) or (b) of subsection (4) of that section is practicable,
 - (ii) whether it is necessary or expedient for any purpose connected with the carrying out of any works by virtue of either of those paragraphs for any other works to be carried out, or
 - (iii) how any works specified in that subsection should be carried out;
- (ab) for the purpose of inspecting, examining or testing—
- (i) any meter which is on the premises and which is used by Scottish Water for measuring the quantity of water supplied, or
 - (ii) any pipes or apparatus installed in the course of any works which were carried out for any purpose which is connected with the installation, connection, testing, maintenance or repair of any such meter;
- (ac) for the purpose of ascertaining from any such meter the quantity of water supplied to the premises;]
- (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 [^{F200}Scottish Water]^{F198} . . . 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 [^{F200}Scottish Water]^{F198}
- (2) Admission to any premises, not being a factory within the meaning of the ^{M2}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.
- (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

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temporarily absent, or that the case is one 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 [^{F201}the statutory maximum] 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 [^{F202}level 3 on the standard scale].
- (8) This section, except subsection (6), shall not apply to any right conferred by section 93.
- [^{F203}(9) This section does not apply in relation to the purposes mentioned in section 76M(1).]

Textual Amendments

F197 Words in s. 38(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 30\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

F198 Words in s. 38(1)(a)(c)(d) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), [Sch. 13 para. 119\(24\)](#), [Sch. 14](#); S.I. 1996/323, [art. 4\(1\)\(c\)\(d\)](#), [Sch. 2](#)

F199 S. 38(1)(aa)-(ac) substituted for s. 38(1)(a) (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 30\(c\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

F200 Words in s. 38(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 30\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

F201 Words substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [Sch. 15 para. 23](#)

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- F202** Words in s. 38(7) substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), ss. 289G, 289H, [Sch. 7D](#) (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), s. 54, [Sch. 6](#), which Sch. 6 was repealed (1.4.1996) by 1995 c. 40, ss. 6, 7(2), [Sch. 5](#)) and those same words substituted (1.4.1996) by 1995 c. 40, ss. 3, 7(2), [Sch. 1 para. 10](#), [Sch. 2 Pt. III](#)
- F203** S. 38(9) inserted (10.6.2013 for specified purposes, 21.12.2013 in so far as not already in force) by [Water Resources \(Scotland\) Act 2013 \(asp 5\)](#), [ss. 30\(1\)](#), 56(1)(2); S.S.I. 2013/163, art. 3, sch., S.S.I. 2013/342, at. 2(b)

Modifications etc. (not altering text)

- C3** S. 38(1)–(7) applied with modifications by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), [s. 170B\(2\)](#) (as inserted by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 102, [Sch. 13](#))

Marginal Citations

- M2** 1961 c. 34.

Changes to legislation:

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[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 24(1A) inserted by [2003 asp 3 sch. 4 para. 3\(3\)](#)
- s. 110A certain functions transferred by [S.I. 1999/1750 art. 3Sch. 2](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 110A by 1995 c. 25, Sch. 21 para. 5 has not yet been brought into force)
- s. 110A inserted by [1995 c. 25 Sch. 21 para. 5](#)
- s. 110A(7) words substituted by [1997 c. 11 Sch. 2 para. 30\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 110A by 1995 c. 25, Sch. 21 para. 5 has not yet been brought into force)
- s. 110A(8) words substituted by [1997 c. 11 Sch. 2 para. 30\(2\)\(b\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 110A by 1995 c. 25, Sch. 21 para. 5 has not yet been brought into force)
- Sch. 3 para. 4(3)(4) inserted by [2003 asp 3 sch. 4 para. 4\(2\)](#)
- Sch. 3 para. 6(1A) inserted by [2003 asp 3 sch. 4 para. 4\(3\)](#)
- Sch. 4 s. 34(3) inserted by [2003 asp 3 sch. 4 para. 5](#)