

SCHEDULE

PART IV

AMENDMENTS TO PRIMARY LEGISLATION

The Water (Scotland) Act 1980

4.—(1) The Water (Scotland) Act 1980⁽¹⁾ is amended as follows.

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

(a) in subsection (1), omit the words from “, but no such agreement” to the end;

(b) in subsection (3)—

(i) omit paragraph (a) and the following “or”; and

(ii) for “the said Part III” substitute “Part III of Schedule 4”;

(c) in subsection (4), omit paragraph (a) and the following “or”;

(d) in subsection (5)—

(i) insert at the beginning “Subject to subsections (5A) and (5B)”;

(ii) omit the words “agreement or” in both places where they occur;

(e) after subsection (5), insert—

“(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.”; and

(f) omit subsection (6).

(3) In section 109(1) (interpretation) insert the following definitions in the appropriate places alphabetically—

““protection of the water environment” has the same meaning as in section 1(2) of the [Water Environment and Water Services \(Scotland\) Act 2003 \(asp 3\)](#)”; and

““the water environment” has the same meaning as in section 3 of the [Water Environment and Water Services \(Scotland\) Act 2003 \(asp 3\)](#)”.

(1) 1980 c. 45. Section 109 was amended by the New Roads and Street Works Act 1991 (c. 22), Schedule 8, paragraph 108, the Local Government Finance Act 1992 (c. 14), Schedule 11, paragraph 38 and Schedule 14, the Local Government etc. (Scotland) Act 1994 (c. 39), section 179, Schedule 13, paragraph 119 and Schedule 14, the Environment Act 1995 (c. 25), Schedule 22, paragraph 34 and Schedule 24, the Local Government and Rating Act 1997 (c. 29), section 33 and Schedule 3, paragraph 16, the [Fire \(Scotland\) Act 2005 \(asp 5\)](#), Schedule 3, paragraph 9 and S.I.1996/323.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: *The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 No. 181*