

Status: Point in time view as at 01/02/1991.

Changes to legislation: Water (Scotland) Act 1980, SCHEDULE 3 is up to date with all changes known to be in force on or before 22 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)

SCHEDULES

SCHEDULE 3

Sections 22, 24.

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

Modifications etc. (not altering text)

- C1** Sch. 3: power to apply conferred (1.10.1991) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1, 130\)](#), s. 20(10), **Sch. 7 para. 5(1)(b)**

PART I

Modifications etc. (not altering text)

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

Provisions as to breaking open streets, etc.

Power to break open streets.

- 1 Subject to the provisions of this Part of this Schedule, a water authority and water development board may, within their limits of supply or area for the purpose of laying, constructing, inspecting, repairing, altering, renewing or removing mains, service pipes, plant or other works, and outside those limits of supply or area for the purpose of laying any mains which they are authorised to lay and of inspecting, repairing, altering, renewing or removing mains, break open [^{F1}a road], and any cellar or vault below any [^{F2}road], and any sewer, drain or tunnel in or under any such [^{F3}road], and may remove and use the soil or other materials in or under any such [^{F3}road]:

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

Textual Amendments

- F1** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 81(14)(a)(i)**
F2 Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 81(14)(a)(ii)**
F3 Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 81(14)(a)(iii)**

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

- 2 (1) Except in cases of emergency arising from defects in existing pipes, plant or works, [^{F4}a private road] under the control or management of, or maintainable by, a railway company or navigation authority shall not be broken open without their consent, but that consent shall not be unreasonably withheld, and any question whether or not consent is unreasonably withheld shall be referred to and determined by the Secretary of State.
- (2) Where the authority or board propose to break open [^{F5}any length of road] which forms a level-crossing belonging to persons not being a railway company or navigation authority and which is not under the control or management of a railway company or navigation authority, they shall give to those persons the like notice as is referred to in [^{F6}section 6 of the ^{M1}Public Utilities Street Works Act 1950][^{F6}section 114 of the New Roads and Street Works Act 1991] and, if and in so far as the proposed work is likely to affect the structure of any bridge or other works belonging to those persons, shall carry out the work to the reasonable satisfaction of the engineer or other authorised officer acting on behalf of those persons in accordance with plans approved by him.

Any dispute arising under this sub-paragraph between the authority or board and those persons shall be determined by arbitration.
- (3) For the protection of persons entitled to the benefit of section 32 of the ^{M2}Tramways Act 1870 (which relates to the rights of authorities and companies, etc., to open roads) that section shall be construed as applying to operations authorised by the special Act, and in the said section as so applied any reference to a tramway shall be construed as including a reference to a trolley vehicle system.
- (4) Nothing contained in this paragraph for the protection of owners of level-crossings shall affect the decision of any question which may arise as to the legality of the construction of, or the right to continue, any level-crossing.

Textual Amendments

F4 Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 81(14)(b)(i)**

F5 Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 81(14)(b)(ii)**

F6 Words "section 114 of the New Roads and Street Works Act 1991" substituted (prosp.) for words "section 6 of the Public Utilities Street Works Act 1950" by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), ss. 168(1), 170, **Sch. 8 Pt. IV para. 108(7)(a)**

Marginal Citations

M1 1950 c. 39.

M2 1870 c. 78.

3 F7

Textual Amendments

F7 [Sch. 3 para. 3](#) repealed by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1)(3), **Sch. 9 para. 81(14)(c)**, Sch. 11

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PART II

Modifications etc. (not altering text)

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

Provisions as to laying communication and supply pipes, etc.

Power to lay service pipes, etc.

- 4 (1) A water authority may in any [^{F8}road] within their limits of supply lay such service pipes with such stopcocks and other fittings as they deem necessary for supplying water to premises within the said limits, and may from time to time inspect, repair, alter or renew and may at any time remove any service pipe laid in a [^{F8}road] whether by virtue of this section or otherwise:

Provided that before exercising any of the powers conferred by this paragraph, the authority shall, except in cases of emergency arising from defects in any existing pipes, plant or works, give [^{F9}not less than 72 hours'] [^{F9}such] notice, to [^{F10}—

- (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] [^{F11}as would require to be given by an undertaker under section 114 of the New Roads and Street Works Act 1991 (notice of starting date of works) in accordance with that section and with section 156 of that Act (service of notice)].
- (2) Where a service pipe has been lawfully laid in, on or over any land not forming part of a [^{F12}road], the authority may from time to time enter upon that land and inspect, repair, alter, renew or remove the then existing pipe or lay a new pipe in substitution therefor, but shall pay compensation for any damage done by them.

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

Textual Amendments

- F8** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 81(14)(d)(i)**
- F9** "such" substituted (prosp.) for "not less than 72 hours" by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), ss. 168(1), 170, **Sch. 8 Pt. IV para. 108(7)(b)**
- F10** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 81(14)(d)(i)**
- F11** Words added (prosp.) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), ss. 168(1), 170, **Sch. 8 Pt. IV para. 108(7)(b)**
- F12** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 81(14)(d)(ii)**

Laying of supply pipes, etc.

- 5 An owner or occupier of any premises within the limits of supply who desires to have a supply of water for his domestic purposes from the waterworks of

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the authority shall, subject as hereinafter provided, comply with the following requirements:

- (a) he shall give to the authority 14 days' notice of his intention to lay the necessary supply pipe; and
- (b) he shall lay the supply pipe at his own expense, having first obtained, as respects any land not forming part of a [^{F13}road], the consent of the owners and occupiers thereof:

Provided that, where any part of the supply pipe is to be laid in a [^{F13}road], he shall not himself break open the [^{F13}road] or lay that part of the pipe.

Textual Amendments

F13 Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\), s. 156\(1\), Sch. 9 para. 81\(14\)\(e\)](#)

Laying of communication pipes, etc.

- 6 (1) Upon receipt of such a notice as is referred to in the last foregoing paragraph, the authority shall, within 14 days after the person by whom the notice was given has laid a supply pipe in accordance with the provisions of the last foregoing paragraph, lay the necessary communication pipe and any part of the supply pipe which is to be laid in a [^{F14}road] and shall connect the communication pipe with the supply pipe:

Provided that, where any part of the supply pipe is to be laid in a [^{F14}road], they may elect to lay a main in the [^{F14}road] for such distance as they think fit in lieu of a supply pipe, and in that case shall lay a communication pipe from that main and connect it with the supply pipe.

- (2) The whole, or such part as the water authority may think fit, of the expenses reasonably incurred by the authority in executing the work which they are required or authorised by this paragraph to execute shall be repaid to them by the person by whom the notice was given and may be recovered by them from him:

Provided that, if under the provisions of this paragraph the authority lay a main in lieu of part of a supply pipe, the additional cost incurred in laying a main instead of a supply pipe shall be borne by them.

- (3) Notwithstanding anything in the foregoing provisions of this paragraph, an authority to whom such a notice as aforesaid is given may, within seven days after the receipt thereof, require the person giving the notice either to pay to them in advance the cost of the work, as estimated by their engineer, or to give security for payment thereof to their satisfaction, and, where they make such a requirement, the period of 14 days referred to in sub-paragraph (1) of this paragraph shall not commence to run until the requirement has been complied with.

If any payment so made to the authority exceeds the expenses which under the foregoing provisions of this paragraph they would be entitled to recover from the person giving the notice, the excess shall be repaid by them, and, if and so far as those expenses are not covered by the payment, they may recover the balance from him.

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Textual Amendments

F14 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), Sch. 9 para. 81(14)(e)

Power of authority to require separate service pipes.

- 7 (1) Subject to the provisions of this paragraph the authority may require the provision of a separate service pipe for each house supplied, or to be supplied by them, with water.
- (2) If, in the case of a house already supplied with water but not having a separate service pipe, the authority give notice to the owner of the house, requiring the provision of such a pipe, the owner shall within three months lay so much of the required pipe as will constitute a supply pipe and is not required to be laid in a ^{F15}road], and the authority shall, within 14 days after he has done so, lay so much of the required pipe as will constitute a communication pipe or a supply pipe to be laid in a ^{F15}road] and make all necessary connections.
- (3) If an owner upon whom a notice has been served under the last foregoing sub-paragraph fails to comply therewith, the authority may themselves execute the work which he was required to execute.
- (4) The expenses reasonably incurred by the authority in executing the work which they are required by sub-paragraph (2) to execute, or which they are empowered by the last foregoing sub-paragraph to execute, shall be repaid to them by the owner of the house and may be recovered by them from him, but without prejudice to the rights and obligations as between themselves, of the owner and occupier of the house.
- (5) Where two or more houses are being supplied with water by a single service pipe, the authority shall not require the provision of separate service pipes for those houses until ^{F16}—
- (a) the existing supply pipe becomes so defective as to require renewal, or is no longer sufficient to meet the requirements of the houses; or
 - (b) the houses are, by structural alterations to one or more of them, converted into a larger number of houses. ^{F17}; or
 - (c) the owner or occupier of any of the houses has interfered with, or allowed another person to interfere with, the existing service pipe or the stop-cock fixed to that pipe and has thereby caused the supply of water to any of the houses to be interfered with; or
 - (d) the authority have reasonable grounds to believe that such interference as is mentioned in (c) above is likely to take place.]

Textual Amendments

F15 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), Sch. 9 para. 81(14)(e)

F16 Word repealed by Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2), s. 58(a), Sch. 4 Pt. I

F17 Word and subparas.(c)(d) added by Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2), s. 58(b)

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

- 8 Where any premises which are within the limits of supply abut on, or are situated near to, any [^{F18}road] which is, as to the whole or a part of its width, outside those limits, the authority may for the purpose of supplying water to the owner or occupier of those premises exercise with respect to the whole width of the [^{F18}road] the like powers of laying, inspecting, repairing, altering, renewing and removing service pipes with any necessary stopcocks and fittings and of breaking open the [^{F18}road] for that purpose as are exercisable by them with respect to streets within the said limits, subject however to the like conditions and obligations.

Textual Amendments

F18 Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 81(14)(e)**

Provisions as to the position of stopcocks.

- 9 (1) On every service pipe laid after 16th May 1946 the authority shall, and on every service pipe laid before that date the authority may, fit a stopcock enclosed in a covered box, or pit, of such size as may be reasonably necessary.
- (2) Every stopcock fitted on a service pipe after 16th May 1946 shall be placed in such position as the authority deem most convenient:
- Provided that—
- (a) a stopcock in private premises shall be placed as near as is reasonably practicable to the [^{F19}road] from which the service pipe enters those premises; and
- (b) a stopcock in a [^{F19}road] shall, after consultation with the [^{F20}roads] authority concerned, be placed as near to the boundary thereof as is reasonably practicable.

Textual Amendments

F19 Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 81(14)(f)(i)**

F20 Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 81(14)(f)(ii)**

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