

Status: Point in time view as at 01/10/2005.

Changes to legislation: There are currently no known outstanding effects for the Water Act 1989, Part II. (See end of Document for details)

SCHEDULES

SCHEDULE 26

TRANSITIONAL PROVISIONS AND SAVINGS

PART II

WATER AND SEWERAGE SERVICES

Arrangements with statutory water companies

- 4 (1) Subject to sub-paragraph (2) below, where any arrangements for the purposes of section 12 of the 1973 Act (supply by statutory water companies on behalf of water authorities) are in force immediately before the transfer date, those arrangements shall cease to have effect on that date but their so ceasing to have effect shall not affect their operation on and after that date (subject to the transfer of rights and liabilities in accordance with a scheme under Schedule 2 to this Act) in relation to—
- (a) proceedings for, or any indemnity in respect of or of proceedings for, any breach of duty occurring before the transfer date (whether or not any right of action has arisen in respect of that breach before that day); and
 - (b) claims for, or the payment of any sums in respect of, a contribution payable under section 1 of the ^{M1}Rural Water Supplies and Sewerage Act 1944.
- (2) In so far as any such arrangements relate to matters for which provision could have been made by an agreement under section 12 of the 1945 Act (supply of water in bulk) those arrangements shall (in accordance with paragraph 5 below) continue to have effect on and after the transfer date as if they had been contained in such an agreement.

Marginal Citations

M1 1944 c. 26.

Agreements for water supply in bulk

- 5 (1) Any agreement made or having effect as if made under section 12 of the 1945 Act (supply of water in bulk) which is in force immediately before the transfer date shall continue in force on and after that date notwithstanding the repeal of that section but subject to the transfer of rights and liabilities under the agreement in accordance with a scheme under Schedule 2 to this Act.
- (2)

F1

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Textual Amendments

- F1** S. 5(1)–(4), 6(1)–(7), 7–10, 11(1)–(8), 12, 14–22, 24–28, 31–68, 70(3)–(5), 71, 73–82, 97–135 137(1)–(8)(10)(11), 138, 139(1)–(5), 140, 142(1), 143–167, 170, 171, 176, 178–182, 186, 188, 189(2)–(5)(8), Sch. 1 paras. 1–10, 14–23, Sch. 3 paras. 1–5, Sch. 4 paras. 1–5, Schs. 6, 7, Sch. 8 paras. 1, 2(1)–(10)(12), 3, 4, 5, Schs. 9–14, Sch. 16, Schs. 18–21, 24, Sch. 25 paras. 2, 6, 7, 10, 21, 27(4), 31(1), 40, 45(1)(2), 61(5), 63, 71(1)(2), 72, 73, 80(1), Sch. 26 paras. 5(2)–(4), 7, 9–12, 13(1), 14(1)(2), 15(2), 16(1)(2)(5)–(7)(10), 18, 19, 21–25, 27–29, 32–39, 40(2), 41(2)(3), 42–45, 48, 50, 56, 57(1)–(5)(7) repealed by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), s. 3, **Sch. 3 Pt.I** (with s. 2, Sch. 2 paras. 10, 14(1), 15)

Water main requisitions

- 6 (1) Where—
- (a) any water authority have, at any time before the transfer date, been required for the purposes of any of the provisions of sections 36 or 37 of the 1945 Act or of section 29 of Schedule 3 to that Act (water main requisitions) to lay any main or do any other thing for bringing water to any place; and
 - (b) the requirement has not been complied with before the transfer date,
- then, notwithstanding any repeal made by this Act, the provisions of that Act shall have effect for the purpose of making the water undertaker for the area in which that place is situated liable for any contravention of that requirement occurring on or after the transfer date (including so much of any continuing contravention as occurs on or after that date), and for the purpose of preserving on and after that date the effect of any obligation to make payments, to pay interest or to comply with any undertaking.
- (2) Provisions which have effect for any purpose by virtue of sub-paragraph (1) above shall so have effect as if the water undertaker in question were the same person in law as the water authority and as if any reference in the 1945 Act to water rates or to charges payable under Part III of the 1973 Act included a reference to any charges imposed by virtue of this Act ^[F2]or Chapter I of Part V of the Water Industry Act 1991] in respect of the supply of water by that undertaker.

Textual Amendments

- F2** Words inserted by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), s. 2, **Sch. 1 para. 50(3)(a)**

Domestic connections

- 7 ^{F3}

Textual Amendments

- F3** S. 5(1)–(4), 6(1)–(7), 7–10, 11(1)–(8), 12, 14–22, 24–28, 31–68, 70(3)–(5), 71, 73–82, 97–135 137(1)–(8)(10)(11), 138, 139(1)–(5), 140, 142(1), 143–167, 170, 171, 176, 178–182, 186, 188, 189(2)–(5)(8), Sch. 1 paras. 1–10, 14–23, Sch. 3 paras. 1–5, Sch. 4 paras. 1–5, Schs. 6, 7, Sch. 8 paras. 1, 2(1)–(10)(12), 3, 4, 5, Schs. 9–14, Sch. 16, Schs. 18–21, 24, Sch. 25 paras. 2, 6, 7, 10, 21, 27(4), 31(1), 40, 45(1)(2), 61(5), 63, 71(1)(2), 72, 73, 80(1), Sch. 26 paras. 5(2)–(4), 7, 9–12, 13(1), 14(1)(2), 15(2), 16(1)(2)(5)–(7)(10), 18, 19, 21–25, 27–29, 32–39, 40(2), 41(2)(3), 42–45, 48, 50, 56, 57(1)–(5)(7) repealed by

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Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), s. 3, **Sch. 3 Pt. I** (with s. 2, Sch. 2 paras. 10, 14(1), 15)

Non-domestic supplies

8 **F4**

Textual Amendments

F4 Sch. 26 para. 8 repealed by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), s. 3, **Sch. 3 Pt. I** (subject to savings in s. 2, Sch. 2 paras. 8, 10, 14(1), 15)

9—12. **F5**

Textual Amendments

F5 S. 5(1)–(4), 6(1)–(7), 7–10, 11(1)–(8), 12, 14–22, 24–28, 31–68, 70(3)–(5), 71, 73–82, 97–135 137(1)–(8)(10)(11), 138, 139(1)–(5), 140, 142(1), 143–167, 170, 171, 176, 178–182, 186, 188, 189(2)–(5)(8), Sch. 1 paras. 1–10, 14–23, Sch. 3 paras. 1–5, Sch. 4 paras. 1–5, Schs. 6, 7, Sch. 8 paras. 1, 2(1)–(10) (12), 3, 4, 5, Schs. 9–14, Sch. 16, Schs. 18–21, 24, Sch. 25 paras. 2, 6, 7, 10, 21, 27(4), 31(1), 40, 45(1) (2), 61(5), 63, 71(1)(2), 72, 73, 80(1), Sch. 26 paras. 5(2)–(4), 7, 9–12, 13(1), 14(1)(2), 15(2), 16(1)(2) (5)–(7)(10), 18, 19, 21–25, 27–29, 32–39, 40(2), 41(2)(3), 42–45, 48, 50, 56, 57(1)–(5)(7) repealed by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), s. 3, **Sch. 3 Pt. I** (with s. 2, Sch. 2 paras. 10, 14(1), 15)

Sewerage functions under the Public Health Acts

13 (1) **F6**

(2) The provisions of Schedule 8 to this Act which vest functions of the Secretary of State in the Director in relation to appeals, references and applications under—

- (a) the said Act of 1937;
- (b) the said Part V; or
- (c) section 43(5) or 45(4) of the ^{M2}Control of Pollution Act 1974,

shall not, on and after the transfer date, affect the powers and duties of the Secretary of State in relation to any such appeal, reference or application which was made before that date; and any written permission given before the transfer date for the purposes of section 60(5) of the Public Health Act 1961 (extension of time) shall have effect in relation to any appeal made on or after that date as if given by the Director.

(3) So much of any provision of the said Act of 1936 as, by virtue of section 338 of that Act (sewers and drains of collegiate and other corporate bodies and Government departments), has effect in accordance with that section shall continue so to have effect on and after the transfer date notwithstanding the amendments and repeals made by this Act, but shall so have effect subject to the power conferred by section 191(1) of this Act.

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Textual Amendments

F6 [S. 5\(1\)–\(4\), 6\(1\)–\(7\), 7–10, 11\(1\)–\(8\), 12, 14–22, 24–28, 31–68, 70\(3\)–\(5\), 71, 73–82, 97–135](#) 137(1)–(8)(10)(11), 138, 139(1)–(5), 140, 142(1), 143–167, 170, 171, 176, 178–182, 186, 188, 189(2)–(5)(8), Sch. 1 paras. 1–10, 14–23, Sch. 3 paras. 1–5, Sch. 4 paras. 1–5, Schs. 6, 7, Sch. 8 paras. 1, 2(1)–(10)(12), 3, 4, 5, Schs. 9–14, Sch. 16, Schs. 18–21, 24, Sch. 25 paras. 2, 6, 7, 10, 21, 27(4), 31(1), 40, 45(1)(2), 61(5), 63, 71(1)(2), 72, 73, 80(1), Sch. 26 paras. 5(2)–(4), 7, 9–12, 13(1), 14(1)(2), 15(2), 16(1)(2)(5)–(7)(10), 18, 19, 21–25, 27–29, 32–39, 40(2), 41(2)(3), 42–45, 48, 50, 56, 57(1)–(5)(7) repealed by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), s. 3, **Sch. 3 Pt. I** (with s. 2, Sch. 2 paras. 10, 14(1), 15)

Marginal Citations

M2 1974 c. 40.

Sewer requisitions

14 (1) ^{F7}

- (3) Subject to sub-paragraph (4) below, where any rights or liabilities of a water authority in respect of any agreement or undertaking entered into before the transfer date for the purposes of section 16 of the 1973 Act, or in respect of any sums deposited with them before that date for those purposes, are transferred in accordance with a scheme under Schedule 2 to this Act to the authority's successor company, those rights and liabilities shall continue to have effect, on and after that date, as rights and liabilities of that company and, in the case of any such right which was subject to subsection (5) of that section (twelve year limit on payments), shall continue to be so subject notwithstanding the repeal of that section.
- (4) On and after the transfer date subsection (8) of section 72 of this Act shall apply, as it applies in relation to the sums mentioned in that subsection, in relation to sums deposited under subsection (6) of section 16 of the 1973 Act.
- (5) Notwithstanding the repeal by this Act of section 16 of the 1973 Act, subsection (10) of that section (determination of certain matters by referee) shall continue to have effect on and after the transfer date for the purposes of anything saved by sub-paragraph . . . ^{F8} (3) above.

Textual Amendments

F7 [S. 5\(1\)–\(4\), 6\(1\)–\(7\), 7–10, 11\(1\)–\(8\), 12, 14–22, 24–28, 31–68, 70\(3\)–\(5\), 71, 73–82, 97–135](#) 137(1)–(8)(10)(11), 138, 139(1)–(5), 140, 142(1), 143–167, 170, 171, 176, 178–182, 186, 188, 189(2)–(5)(8), Sch. 1 paras. 1–10, 14–23, Sch. 3 paras. 1–5, Sch. 4 paras. 1–5, Schs. 6, 7, Sch. 8 paras. 1, 2(1)–(10)(12), 3, 4, 5, Schs. 9–14, Sch. 16, Schs. 18–21, 24, Sch. 25 paras. 2, 6, 7, 10, 21, 27(4), 31(1), 40, 45(1)(2), 61(5), 63, 71(1)(2), 72, 73, 80(1), Sch. 26 paras. 5(2)–(4), 7, 9–12, 13(1), 14(1)(2), 15(2), 16(1)(2)(5)–(7)(10), 18, 19, 21–25, 27–29, 32–39, 40(2), 41(2)(3), 42–45, 48, 50, 56, 57(1)–(5)(7) repealed by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), s. 3, **Sch. 3 Pt. I** (with s. 2, Sch. 2 paras. 10, 14(1), 15)

F8 Words repealed by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), s. 3, Sch. 3 Pt. I (with s. 2, Sch. 2 paras. 10, 14(1), 15)

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Modifications etc. (not altering text)

- C1** Sch. 26 para. 14(5) extended by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), s. 2, [Sch. 2 para. 9\(1\)](#)

Arrangements for carrying out sewerage functions

- 15 (1) This paragraph applies to any arrangements between a water authority and a relevant authority which have been made under section 15 of the 1973 Act (arrangements for carrying out sewerage functions) [^{F9}continue to have effect (notwithstanding the repeal of sub-paragraph (2) of this paragraph) in accordance with paragraph 1 of Schedule 2 to the Water Consolidation (Consequential Provisions) Act 1991 and were] in force immediately before the transfer date.
- (2) ^{F10}
- (3) Subject to sub-paragraph (5) below, on and after the transfer date the arrangements shall be varied only by agreement between the sewerage undertaker for the relevant area and the relevant authority and shall be brought to an end only by such agreement or under sub-paragraph (4) below.
- (4) Subject to sub-paragraph (6) below, the arrangements may be brought to an end by the sewerage undertaker for the relevant area or the relevant authority giving reasonable notice to the other.
- (5) Any reasonable notice with respect to the arrangements which has been given before the transfer date under paragraph 5(1)(b) of Schedule 4A to the 1973 Act (termination of arrangements by relevant authority) shall, if it expires after the transfer date, take effect when it expires as if it had been reasonable notice given under sub-paragraph (4) above to the sewerage undertaker for the relevant area.
- (6) The sewerage undertaker for the relevant area shall not give any notice under sub-paragraph (4) above which expires before 1st April 1992.
- (7) Section 101(2) of the ^{M3}Local Government Act 1972 (delegation by committee or sub-committee) shall apply for the purposes of the arrangements only if and to the extent that the sewerage undertaker for the relevant area does not otherwise direct.
- (8) In this paragraph “relevant authority” has the same meaning as in section 73 of this Act.

Textual Amendments

- F9** Words substituted by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), s. 2, [Sch. 1 para. 50\(3\)\(b\)](#)
- F10** [S. 5\(1\)–\(4\)](#), [6\(1\)–\(7\)](#), [7–10](#), [11\(1\)–\(8\)](#), [12](#), [14–22](#), [24–28](#), [31–68](#), [70\(3\)–\(5\)](#), [71](#), [73–82](#), [97–135](#) [137\(1\)–\(8\)\(10\)\(11\)](#), [138](#), [139\(1\)–\(5\)](#), [140](#), [142\(1\)](#), [143–167](#), [170](#), [171](#), [176](#), [178–182](#), [186](#), [188](#), [189\(2\)–\(5\)\(8\)](#), [Sch. 1 paras. 1–10](#), [14–23](#), [Sch. 3 paras. 1–5](#), [Sch. 4 paras. 1–5](#), [Schs. 6, 7](#), [Sch. 8 paras. 1, 2\(1\)–\(10\)\(12\)](#), [3, 4, 5](#), [Schs. 9–14](#), [Sch. 16](#), [Schs. 18–21](#), [24](#), [Sch. 25 paras. 2, 6, 7, 10, 21, 27\(4\)](#), [31\(1\)](#), [40](#), [45\(1\)\(2\)](#), [61\(5\)](#), [63](#), [71\(1\)\(2\)](#), [72](#), [73](#), [80\(1\)](#), [Sch. 26 paras. 5\(2\)–\(4\)](#), [7](#), [9–12](#), [13\(1\)](#), [14\(1\)\(2\)](#), [15\(2\)](#), [16\(1\)\(2\)\(5\)–\(7\)\(10\)](#), [18](#), [19](#), [21–25](#), [27–29](#), [32–39](#), [40\(2\)](#), [41\(2\)\(3\)](#), [42–45](#), [48](#), [50](#), [56](#), [57\(1\)–\(5\)\(7\)](#) repealed by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), s. 3, [Sch. 3 Pt. I](#) (with s. 2, [Sch. 2 paras. 10, 14\(1\), 15](#))

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Marginal Citations

M3 1972 c. 70.

Water charges etc.

- 16 (1) F11
- (3) So much of any such scheme as is mentioned in sub-paragraph (1) above as has effect immediately before the transfer date and relates to charges in respect of anything which does not fall to be done on and after that date in the course of the carrying out of the functions of the Authority or any water undertaker or sewerage undertaker shall have effect on and after that date, in relation to the doing of that thing by the successor company of the water authority which made the scheme, as if it were contained in an agreement for the doing of that thing between that company and the person who would have been liable to the charge under the scheme.
- (4) The repeal by this Act of section 30 of the 1973 Act (charges) and the preceding provisions of this paragraph shall not affect the liability of any person for any charge which—
 - (a) has been fixed before the transfer date by virtue of subsection (1)(b)(ii) of that section (environmental services charge); and
 - (b) is due to a water authority immediately before that date or would have become due to such an authority on or after that date in respect of a period ending no later than with the end of the financial year current on that date;
 and such a charge shall, subject to the provisions of the scheme, be payable on or after that date to the person to whom the right to receive it is transferred in accordance with a scheme under Schedule 2 to this Act.
- (5) F11
- (8) The repeal by this Act of section 123 of the ^{M4}Public Health Act 1936 (power of local authorities to give guarantees to water companies) shall not affect any liability arising under any undertaking given under that section before the transfer date to a water authority or statutory water company; but any such undertaking given before that date to a water authority shall have effect on and after that date as if given to the water undertaker for the area to which, or to any part of which, the undertaking relates.
- (9) The repeal by this Act of subsection (4) of section 38 of the 1945 Act (liability for charges etc.) shall not affect the right under that subsection of the occupier of any premises to deduct from his rent at any time on or after the transfer date any sum paid by him (whether or not before that date) in respect of any charge arising under Part III of the 1973 Act in respect of services performed, facilities provided or rights made available before that date.
- (10) F11

Textual Amendments

F11 S. 5(1)–(4), 6(1)–(7), 7–10, 11(1)–(8), 12, 14–22, 24–28, 31–68, 70(3)–(5), 71, 73–82, 97–135 137(1)–(8)(10)(11), 138, 139(1)–(5), 140, 142(1), 143–167, 170, 171, 176, 178–182, 186, 188, 189(2)–(5)(8), Sch. 1 paras. 1–10, 14–23, Sch. 3 paras. 1–5, Sch. 4 paras. 1–5, Schs. 6, 7, Sch. 8 paras. 1, 2(1)–(10)

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(12), 3, 4, 5, Schs. 9–14, Sch. 16, Schs. 18–21, 24, Sch. 25 paras. 2, 6, 7, 10, 21, 27(4), 31(1), 40, 45(1)(2), 61(5), 63, 71(1)(2), 72, 73, 80(1), Sch. 26 paras. 5(2)–(4), 7, 9–12, 13(1), 14(1)(2), 15(2), 16(1)(2)(5)–(7)(10), 18, 19, 21–25, 27–29, 32–39, 40(2), 41(2)(3), 42–45, 48, 50, 56, 57(1)–(5)(7) repealed by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), s. 3, **Sch. 3 Pt. I** (with s. 2, Sch. 2 paras. 10, 14(1), 15)

Marginal Citations

M4 1936 c. 49.

Joint water boards and joint water committees

- 17 Subject to any transfer of property, rights or liabilities in accordance with a scheme under Schedule 2 to this Act, nothing in this Act shall affect—
- (a) the existence or constitution of any joint water board or joint water committee constituted by virtue of an order made under section 9 of the 1945 Act before the transfer date;
 - (b) any rights or liabilities arising by virtue of any agreement made in pursuance of such an order; or
 - (c) the application in relation to any such board or committee of any provision of Schedule 3 to the 1945 Act or the operation of Part V of that Act in relation to any such provision.

18, 19. **F12**

Textual Amendments

F12 [S. 5\(1\)–\(4\), 6\(1\)–\(7\), 7–10, 11\(1\)–\(8\), 12, 14–22, 24–28, 31–68, 70\(3\)–\(5\), 71, 73–82, 97–135](#) 137(1)–(8)(10)(11), 138, 139(1)–(5), 140, 142(1), 143–167, 170, 171, 176, 178–182, 186, 188, 189(2)–(5)(8), Sch. 1 paras. 1–10, 14–23, Sch. 3 paras. 1–5, Sch. 4 paras. 1–5, Schs. 6, 7, Sch. 8 paras. 1, 2(1)–(10)(12), 3, 4, 5, Schs. 9–14, Sch. 16, Schs. 18–21, 24, Sch. 25 paras. 2, 6, 7, 10, 21, 27(4), 31(1), 40, 45(1)(2), 61(5), 63, 71(1)(2), 72, 73, 80(1), Sch. 26 paras. 5(2)–(4), 7, 9–12, 13(1), 14(1)(2), 15(2), 16(1)(2)(5)–(7)(10), 18, 19, 21–25, 27–29, 32–39, 40(2), 41(2)(3), 42–45, 48, 50, 56, 57(1)–(5)(7) repealed by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), s. 3, **Sch. 3 Pt. I** (with s. 2, Sch. 2 paras. 10, 14(1), 15)

The Building Act 1984 (c. 55)

- 20 (1) Any directions given before the transfer date by a water authority under subsection (3) of section 18 of the Building Act 1984 which are effective immediately before that date in relation to any drain or sewer shall have effect on and after that date as if they were notifications given under that subsection by the sewerage undertaker for the area which immediately before that date is the water authority’s area for the purposes of section 14 of the 1973 Act.
- (2) Notwithstanding its repeal by this Act, section 69 of the Building Act 1984 (notices requiring provision of water supply to occupied house), except subsection (7), shall continue to have effect on and after the transfer date for the purposes of any notice served under that section before that date; but, in relation to any such notice, the water undertaker for the area in which the house in question is situated shall, on and

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after that date, stand in the place of the statutory water undertakers on whom any obligation or power is imposed or conferred by virtue of the notice.

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