

*Status: Point in time view as at 01/03/2017.*

*Changes to legislation: Water Industry Act 1991 is up to date with all changes known to be in force on or before 15 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

### <sup>F1</sup>SCHEDULE 1

#### Textual Amendments

- F1** Sch. 1 repealed (1.4.2006) by [Water Act 2003 \(c. 37\)](#), ss. 34(4), 101(2), 105(3), [Sch. 9 Pt. 2](#); [S.I. 2005/2714](#), [art. 4\(a\)\(g\)\(i\)](#) (with Sch. para. 8)

### <sup>F2</sup>SCHEDULE 1A

Section 1A(3)

#### THE WATER SERVICES REGULATION AUTHORITY

#### Textual Amendments

- F2** Sch. 1A inserted (1.4.2006 except para. 11) by [Water Act 2003 \(c. 37\)](#), ss. 34(2), 105(3), [Sch. 1](#); [S.I. 2005/2714](#), [art. 4\(a\)](#) (with [Sch. 2 para. 8](#)) (which said para. 11 was repealed (1.10.2006) by 2006 (c. 16), ss. 105(1)(2), 107, Sch. 11 para. 172, {Sch. 12}; [S.I. 2006/2541](#), [art. 2](#))

#### *Membership*

- 1 (1) The Authority shall consist of a chairman, and at least two other members, appointed by the Secretary of State.
- (2) The Secretary of State shall consult—
- (a) the Assembly, before appointing any member; and
  - (b) the chairman, before appointing any other member.

#### *Terms of appointment, remuneration, pensions etc*

- 2 (1) Subject to this Schedule, the chairman and other members of the Authority shall hold and vacate office as such in accordance with the terms of their respective appointments.
- (2) Their terms of appointment shall be determined by the Secretary of State.

#### *Terms of appointment, remuneration, pensions etc*

- 3 (1) An appointment of a person to hold office as chairman or as one of the other members of the Authority shall be for a term not exceeding five years.
- (2) A person holding office as chairman or other member—

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- (a) may resign that office by giving notice in writing to the Secretary of State; and
  - (b) may be removed from office by the Secretary of State on the ground of incapacity or misbehaviour.
- (3) The Secretary of State shall consult the Assembly before removing from office a person holding office as chairman or other member.
- (4) A previous appointment as chairman or other member does not affect a person's eligibility for appointment to either office.

*Terms of appointment, remuneration, pensions etc*

- 4 (1) The Authority shall pay to its chairman and its other members such remuneration, and such travelling and other allowances, as may be determined by the Secretary of State.
- (2) The Authority shall, if required to do so by the Secretary of State—
- (a) pay such pension, allowances or gratuities as may be determined by the Secretary of State to or in respect of a person who is or has been the chairman or a member of the Authority; or
  - (b) make such payments as may be so determined towards provision for the payment of a pension, allowances or gratuities to or in respect of such a person.
- (3) If the Secretary of State determines that there are special circumstances which make it right for a person ceasing to hold office as chairman or other member of the Authority to receive compensation, the Authority shall pay to him a sum by way of compensation of such amount as may be determined by the Secretary of State.

*Staff*

- 5 The Authority may, with the approval of the Minister for the Civil Service as to numbers and terms and conditions of service, appoint such staff as it may determine.

*Committees*

- 6 (1) The Authority may establish committees and any committee of the Authority may establish sub-committees.
- (2) The members of a committee of the Authority may include persons who are not members of the Authority (and the members of a sub-committee may include persons who are not members of the committee or the Authority).

*Proceedings etc*

- 7 (1) The Authority may regulate its own procedure.
- (2) The validity of anything done by the Authority is not affected by a vacancy among its members or by a defect in the appointment of a member.

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*Proceedings etc*

- 8 A document purporting to be duly executed under the seal of the Authority, or signed on its behalf, shall be received in evidence and, unless the contrary is proved, shall be taken to be so executed or signed.

*Code of Practice*

- 9 (1) The Authority shall prepare, and may revise, a code of practice governing the discharge by it of its functions.
- (2) The Authority shall, in exercising its functions, have regard to the provisions of the code.
- (3) In preparing or revising the code, the Authority shall consult—
- (a) the Secretary of State;
  - (b) the Assembly;
  - (c) the Environment Agency;
  - [ the NRBW;]
  - <sup>F3</sup>(ca) the Council;
  - (e) relevant undertakers;
  - [<sup>F4</sup>(f) water supply licensees;
  - (fa) sewerage licensees; and]
  - (g) such other persons as the Authority considers appropriate.
- (4) The Authority shall publish in such manner as it considers appropriate the code as for the time being in force.

**Textual Amendments**

- F3** Sch. 1A para. 9(3)(ca) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 261](#) (with [Sch. 7](#))
- F4** Sch. 1A para. 9(3)(f)(fa) substituted for Sch. 1A para. 9(3)(f) and word (1.4.2016) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 121](#); [S.I. 2016/465](#), art. 2(m), [Sch. 1 para. 1\(bb\)](#) (with [Sch. 2](#)) (as amended (22.3.2017) by [S.I. 2017/462](#), art. 16)

*Performance of functions*

- 10 (1) Anything authorised or required to be done by the Authority may be done by—
- (a) any member or employee of the Authority who is authorised for that purpose by the Authority, whether generally or specially;
  - (b) any committee of the Authority which has been so authorised.
- (2) The Authority may not so authorise a committee whose members include any person who is not a member or employee of the Authority.
- [ Sub-paragraph (1) is subject to provision in rules made under section 51 of the
- <sup>F5</sup>(3) Competition Act 1998 by virtue of paragraph 1A of Schedule 9 to that Act in respect of the exercise of a function under Part 1 of that Act.]

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### Textual Amendments

- F5** Sch. 1A para. 10(3) inserted (E.W.) (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 15 para. 6](#); S.I. 2014/416, art. 2(1)(f) (with Sch.)

### *Payments to the Authority*

### *Supplementary powers*

- 12 (1) The Authority has power to do anything which is calculated to facilitate, or is conducive or incidental to, the performance of its functions.
- (2) That power includes the formation of advisory bodies.]

## SCHEDULE 2

Sections 10 and 23.

### TRANSITIONAL PROVISION ON TERMINATION OF APPOINTMENTS

### Modifications etc. (not altering text)

- C2** Sch. 2: power to amend conferred (1.10.2010) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 5 para. 5\(2\)-\(4\)](#) (with s. 49(1)(6)); S.I. 2010/2169, art. 4, [Sch.](#)
- C3** Sch. 2 applied (with modifications) (28.6.2013) by [The Water Industry \(Specified Infrastructure Projects\) \(English Undertakers\) Regulations 2013 \(S.I. 2013/1582\)](#), reg. 1(1)(b), [Sch. 1 para. 3\(3\)\(a\)](#) (with reg. 1(1)(c))

### *Cases where Schedule applies*

- 1 (1) This Schedule shall apply in each of the cases specified in sub-paragraphs (2) [<sup>F6</sup>to (3A)] below.
- (2) The first case in which this Schedule applies is where—
- (a) the Secretary of State or the Director is proposing to make an appointment or variation replacing a company as a relevant undertaker; and
  - (b) by virtue of that appointment a company (“the new appointee”) will hold an appointment as the water undertaker or sewerage undertaker for an area which is or includes the whole or any part of the area for which, until the relevant date, another company (“the existing appointee”) holds an appointment as the water undertaker or, as the case may be, sewerage undertaker.
- (3) The second case in which this Schedule applies is where—
- (a) the High Court has made a special administration order in relation to any company [<sup>F7</sup>holding an appointment under Chapter 1 of this Part] (“the existing appointee”); and
  - (b) it is proposed that on and after the relevant date another company (“the new appointee”) should, without any such appointment or variation as

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is mentioned in sub-paragraph (2) above having been made, hold an appointment as water undertaker or sewerage undertaker for an area which is or includes the whole or any part of the area for which until that date the existing appointee holds an appointment as water undertaker or, as the case may be, sewerage undertaker.

[<sup>F8</sup>(3A) The third case in which this Schedule applies is where—

- (a) the High Court has made a special administration order in relation to any company which is [<sup>F9</sup>a qualifying water supply licensee or a qualifying sewerage licensee] (“the transferor”); and
- (b) it is proposed that on and after the relevant date another company (“the transferee”) should [<sup>F10</sup>carry on—
  - (i) activities] relating to the introduction or introductions of water mentioned in section 23(6)(b) of this Act which were carried on by the transferor until that date[<sup>F11</sup>; or
  - (ii) activities relating to the removal or removals of matter mentioned in section 23(9) of this Act which were carried on by the transferor until that date (as the case may be).]]

(4) In this Schedule—

“existing appointee” and “new appointee” shall be construed in accordance with sub-paragraph (2) or (3) above according to whether this Schedule is applying in the case mentioned in the first or second of those sub-paragraphs;

“other appointees” means any companies, other than the existing appointee and the new appointee, which are likely on or at a time after the relevant date to be holding appointments as water undertakers or sewerage undertakers for any area which is or includes any part of the area for which the existing appointee has at any time held an appointment as water undertaker or sewerage undertaker;

[<sup>F12</sup>“other relevant companies” means any companies, other than the transferor and the transferee, which are likely on or at a time after the relevant date [<sup>F13</sup>to be—

- (a) holding] appointments as water undertakers for any area in which, or in part of which, the activities relating to the introduction or introductions of water mentioned in section 23(6)(b) of this Act will be carried on by the transferee; [<sup>F14</sup>or
- (b) holding appointments as sewerage undertakers for any area in which, or in part of which, the activities relating to the removal or removals of matter mentioned in section 23(9) of this Act will be carried on by the transferee (as the case may be);]]

“the relevant date” means—

- (a) where this Schedule applies by virtue of sub-paragraph (2) above, the coming into force of the appointment or variation mentioned in paragraph (a) of that sub-paragraph; and
- (b) where this Schedule applies by virtue of sub-paragraph (3) [<sup>F15</sup>or (3A)] above, such day, being a day before the discharge of the special administration order takes effect, as the High Court may appoint for the purposes of this Schedule; and

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[<sup>F16</sup>“transferor” and “transferee” shall be construed in accordance with sub-paragraph (3A) above;]

“special administrator”, in relation to a company in relation to which a special administration order has been made, means the person for the time being holding office for the purposes of section 23(1) of this Act.

#### Textual Amendments

- F6** Words in Sch. 2 para. 1 substituted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), **Sch. 8 para. 51(2)**; S.I. 2005/2714, **art. 3(c)** (with Sch. para. 8)
- F7** Words in Sch. 2 para. 1(3)(a) inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), **Sch. 8 para. 51(3)**; S.I. 2005/2714, **art. 3(c)** (with Sch. para. 8)
- F8** Sch. 2 para. 1(3A) inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), **Sch. 8 para. 51(4)**; S.I. 2005/2714, **art. 3(c)** (with Sch. para. 8)
- F9** Words in Sch. 2 para. 1(3A)(a) substituted (1.4.2016) by [Water Act 2014 \(c. 21\)](#), s. 94(3), **Sch. 7 para. 122(2)(a)**; S.I. 2016/465, **art. 2(m)**, Sch. 1 para. 1(bb) (with Sch. 2) (as amended (22.3.2017) by S.I. 2017/462, art. 16)
- F10** Words in Sch. 2 para. 1(3A)(b) substituted (1.4.2016) by [Water Act 2014 \(c. 21\)](#), s. 94(3), **Sch. 7 para. 122(2)(b)**; S.I. 2016/465, **art. 2(m)**, Sch. 1 para. 1(bb) (with Sch. 2) (as amended (22.3.2017) by S.I. 2017/462, art. 16)
- F11** Sch. 2 para. 1(3A)(b)(ii) and word inserted (1.4.2016) by [Water Act 2014 \(c. 21\)](#), s. 94(3), **Sch. 7 para. 122(2)(c)**; S.I. 2016/465, **art. 2(m)**, Sch. 1 para. 1(bb) (with Sch. 2) (as amended (22.3.2017) by S.I. 2017/462, art. 16)
- F12** Sch. 2 para. 1(4): definition of "other relevant companies" inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), **Sch. 8 para. 51(5)(b)**; S.I. 2005/2714, **art. 3(c)** (with Sch. para. 8)
- F13** Words in Sch. 2 para. 1(4) substituted (1.4.2016) by [Water Act 2014 \(c. 21\)](#), s. 94(3), **Sch. 7 para. 122(2)(d)**; S.I. 2016/465, **art. 2(m)**, Sch. 1 para. 1(bb) (with Sch. 2) (as amended (22.3.2017) by S.I. 2017/462, art. 16)
- F14** Words in Sch. 2 para. 1(4) inserted (1.4.2016) by [Water Act 2014 \(c. 21\)](#), s. 94(3), **Sch. 7 para. 122(2)(e)**; S.I. 2016/465, **art. 2(m)**, Sch. 1 para. 1(bb) (with Sch. 2) (as amended (22.3.2017) by S.I. 2017/462, art. 16)
- F15** Sch. 2 para. 1(4): words in definition of "the relevant date" inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), **Sch. 8 para. 51(5)(a)**; S.I. 2005/2714, **art. 3(c)** (with Sch. para. 8)
- F16** Sch. 2 para. 1(4): definition of "transferor" inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), **Sch. 8 para. 51(5)(b)**; S.I. 2005/2714, **art. 3(c)** (with Sch. para. 8)

#### Modifications etc. (not altering text)

- C4** Sch. 2 para. 1 applied (with modifications) (28.6.2013) by [The Water Industry \(Specified Infrastructure Projects\) \(English Undertakers\) Regulations 2013 \(S.I. 2013/1582\)](#), reg. 1(1)(b), **Sch. 1 para. 3(3)(b)** (with reg. 1(1)(c))

#### *Making and modification of transfer schemes*

- 2 (1) The existing appointee, acting with the consent of the new appointee [<sup>F17</sup>and, in relation to the matters affecting them, of any other appointees], may make a scheme under this Schedule for the transfer of property, rights and liabilities from the existing appointee to the new appointee.
- (2) A scheme under this Schedule shall not take effect unless it is approved by the Secretary of State or the Director.

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- (3) Where a scheme under this Schedule is submitted to the Secretary of State or the Director for his approval, he may, with the consent of the new appointee [<sup>F18</sup>and the existing appointee] modify the scheme before approving it.
  - (4) If at any time after a scheme under this Schedule has come into force in relation to the property, rights and liabilities of any company the Secretary of State considers it appropriate to do so and the existing appointee [<sup>F19</sup>and the new appointee] consent to the making of the order, the Secretary of State may by order provide that that scheme shall for all purposes be deemed to have come into force with such modifications as may be specified in the order.
  - (5) An order under sub-paragraph (4) above may make, with effect from the coming into force of the scheme to which it relates, any such provision as could have been made by the scheme and, in connection with giving effect to that provision from that time, may contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.
  - (6) In determining, in accordance with his duties under Part I of this Act, whether and in what manner to exercise any power conferred on him by this paragraph the Secretary of State or the Director shall have regard to the need to ensure that any provision for the transfer of property, rights and liabilities in accordance with a scheme under this Schedule allocates property, rights and liabilities to the different companies affected by the scheme in such proportions as appear to him to be appropriate in the context of the different functions which will, by virtue of this Act, be carried out at different times on and after the relevant date by the new appointee, by the existing appointee and by any other appointees.
  - (7) It shall be the duty of the new appointee, of the existing appointee and of any other appointees to provide the Secretary of State or the Director with all such information and other assistance as he may reasonably require for the purposes of, or in connection with, the exercise of any power conferred on him by this paragraph.
- <sup>F20</sup>(7A) In a case specified in paragraph 1(3A) above—
- (a) the preceding provisions of this paragraph shall have effect as if—
    - (i) any reference to the existing appointee were a reference to the transferor;
    - (ii) any reference to the new appointee were a reference to the transferee; and
    - (iii) any reference to other appointees were a reference to other relevant companies; and
  - (b) sub-paragraph (6) above shall have effect as if the reference to functions were, in relation to a company which is a [<sup>F21</sup>water supply licensee or sewerage licensee], a reference to activities authorised by its licence and any statutory functions imposed on it in consequence of its licence.]
- (8) A company which without reasonable excuse fails to do anything required of it by virtue of sub-paragraph (7) above shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.
  - (9) Without prejudice to the other provisions of this Act relating to the special administrator of a company, anything which is required by this paragraph to be done by a company shall, where that company is a company in relation to which a special

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administration order is in force, be effective only if it is done on the company's behalf by its special administrator.

#### Textual Amendments

- F17** Words in Sch. 2 para. 2(1) omitted (E.W.) (1.4.2011) by virtue of [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 5 para. 1\(2\)](#) (with s. 49(1)(6)); S.I. 2011/694, art. 3(j) (with art. 5(3))
- F18** Words in Sch. 2 para. 2(3) substituted (E.W.) (1.4.2011) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 5 para. 1\(3\)](#) (with s. 49(1)(6)); S.I. 2011/694, art. 3(j) (with art. 5(3))
- F19** Words in Sch. 2 para. 2(4) substituted (E.W.) (1.4.2011) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 5 para. 1\(4\)](#) (with s. 49(1)(6)); S.I. 2011/694, art. 3(j) (with art. 5(3))
- F20** Sch. 2 para. 2(7A) inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 51\(6\)](#); S.I. 2005/2714, [art. 3\(c\)](#) (with [Sch. para. 8](#))
- F21** Words in Sch. 2 para. 2(7A)(b) substituted (1.4.2016) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 122\(3\)](#); S.I. 2016/465, [art. 2\(m\)](#), [Sch. 1 para. 1\(bb\)](#) (with [Sch. 2](#)) (as amended (22.3.2017) by S.I. 2017/462, art. 16)

#### Modifications etc. (not altering text)

- C5** Sch. 2 para. 2 applied (with modifications) (28.6.2013) by [The Water Industry \(Specified Infrastructure Projects\) \(English Undertakers\) Regulations 2013 \(S.I. 2013/1582\)](#), [reg. 1\(1\)\(b\)](#), [Sch. 1 para. 3\(3\)\(c\)](#) (with [reg. 1\(1\)\(c\)](#))

#### *Transfers by scheme*

- 3 (1) A scheme under this Schedule for the transfer of the existing appointee's property, rights and liabilities shall come into force on the relevant date and, on coming into force, shall have effect, in accordance with its provisions and without further assurance, so as to transfer the property, rights and liabilities to which the scheme relates to the new appointee.
- (2) For the purpose of making any division of property, rights or liabilities which it is considered appropriate to make in connection with the transfer of property, rights and liabilities in accordance with a scheme under this Schedule, the provisions of that scheme may—
- (a) create for the existing appointee, the new appointee or any other appointees an interest in or right over any property to which the scheme relates;
  - (b) create new rights and liabilities as between any two or more of those companies [<sup>F22</sup>(but may not impose new liabilities on any other appointee);] and
  - (c) in connection with any provision made by virtue of paragraph (a) or (b) above, make incidental provision as to the interests, rights and liabilities of other persons with respect to the subject-matter of the scheme.
- (3) A scheme under this Schedule may contain provision for the consideration to be provided by the new appointee and by any other appointees in respect of the transfer or creation of property, rights and liabilities by means of the scheme; and any such provision shall be enforceable in the same way as if the property, rights and liabilities had been created or transferred, and (if the case so requires) had been capable of being created or transferred, by agreement between the parties.
- (4) The property, rights and liabilities of the existing appointee that shall be capable of being transferred in accordance with a scheme under this Schedule shall include—



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- (a) property, rights and liabilities that would not otherwise be capable of being transferred or assigned by the existing appointee;
  - (b) such property, rights and liabilities to which the existing appointee may become entitled or subject after the making of the scheme and before the relevant date as may be described in the scheme;
  - (c) property situated anywhere in the United Kingdom or elsewhere;
  - (d) rights and liabilities under enactments;
  - (e) rights and liabilities under the law of any part of the United Kingdom or of any country or territory outside the United Kingdom.
- (5) The provision that may be made by virtue of sub-paragraph (2)(b) above includes—
- (a) provision for treating any person who is entitled by virtue of a scheme under this Schedule to possession of a document as having given another person an acknowledgement in writing of the right of that other person to the production of the document and to delivery of copies thereof; and
  - (b) provision applying section 64 of the <sup>M2</sup>Law of Property Act 1925 (production and safe custody of documents) in relation to any case in relation to which provision falling within paragraph (a) above has effect.
- (6) For the avoidance of doubt, it is hereby declared that the transfers authorised by paragraph (a) of sub-paragraph (4) above include transfers which, by virtue of that paragraph, are to take effect as if there were no such contravention, liability or interference with any interest or right as there would be, in the case of a transfer or assignment otherwise than in accordance with a scheme under this Schedule, by reason of any provision having effect (whether under any enactment or agreement or otherwise) in relation to the terms on which the existing appointee is entitled or subject to the property, right or liability in question.
- [<sup>F23</sup>(7) In a case specified in paragraph 1(3A) above the preceding provisions of this paragraph shall have effect as if—
- (a) any reference to the existing appointee were a reference to the transferor;
  - (b) any reference to the new appointee were a reference to the transferee; and
  - (c) any reference to other appointees were a reference to other relevant companies.]

#### Textual Amendments

**F22** Words in [Sch. 2 para. 3\(2\)\(b\)](#) added (1.4.2011) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 5 para. 2](#) (with s. 49(1)(6)); S.I. 2011/694, art. 3(j) (with art. 5(3))

**F23** [Sch. 2 para. 3\(7\)](#) inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 51\(7\)](#); S.I. 2005/2714, [art. 3\(c\)](#) (with [Sch. para. 8](#))

#### Modifications etc. (not altering text)

**C6** [Sch. 2 para. 3](#) applied (with modifications) (28.6.2013) by [The Water Industry \(Specified Infrastructure Projects\) \(English Undertakers\) Regulations 2013 \(S.I. 2013/1582\)](#), reg. 1(1)(b), [Sch. 1 para. 3\(3\)\(d\)](#) (with reg. 1(1)(c))

#### Marginal Citations

**M2** 1925 c. 20.

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### *Transfer of appointment*

- 4 (1) Where a scheme under this Schedule is made in the case specified in paragraph 1(3) above, the scheme may provide for the transfer to the new appointee, with such modifications as may be specified in the scheme, of the appointment under Chapter I of Part II of this Act which is held by the existing appointee.
- (2) In such a case different schemes under this Schedule may provide for the transfer of such an appointment to different companies as respects different parts of the area to which the appointment relates.

### *[<sup>F24</sup>Exclusion of transfer of licence*

#### **Textual Amendments**

**F24** Sch. 2 para. 4A and preceding cross-heading inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 51\(8\)](#); S.I. 2005/2714, [art. 3\(c\)](#) (with [Sch. para. 8](#))

- 4A Where a scheme under this Schedule is made in the case specified in paragraph 1(3A) above, the scheme may not provide for the transfer to the transferee of the licence under Chapter 1A of Part 2 of this Act which is held by the transferor.]

#### **Modifications etc. (not altering text)**

**C7** Sch. 2 para. 4A applied (with modifications) (28.6.2013) by [The Water Industry \(Specified Infrastructure Projects\) \(English Undertakers\) Regulations 2013 \(S.I. 2013/1582\)](#), reg. 1(1)(b), [Sch. 1 para. 3\(3\)\(e\)](#) (with reg. 1(1)(c))

### *Supplemental provisions of schemes*

- 5 (1) A scheme under this Schedule may contain supplemental, consequential and transitional provision for the purposes of, or in connection with, the provision for the transfers or any other provision made by the scheme.
- (2) Without prejudice to the generality of sub-paragraph (1) above, a scheme under this Schedule may provide—
- (a) that for purposes connected with any transfers made in accordance with the scheme (including the transfer of rights and liabilities under an enactment) the new appointee is to be treated as the same person in law as the existing appointee;
  - (b) that, so far as may be necessary for the purposes of or in connection with any such transfers, agreements made, transactions effected and other things done by or in relation to the existing appointee are to be treated as made, effected or done by or in relation to the new appointee;
  - (c) that, so far as may be necessary for the purposes of or in connection with any such transfers, references in any agreement (whether or not in writing) or in any deed, bond, instrument or other document to, or to any officer of, the existing appointee are to have effect with such modifications as are specified in the scheme;
  - (d) that proceedings commenced by or against the existing appointee are to be continued by or against the new appointee;

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- (e) that the effect of any transfer under the scheme in relation to contracts of employment with the existing appointee is not to be to terminate any of those contracts but is to be that periods of employment with the existing appointee are to count for all purposes as periods of employment with the new appointee;
- (f) that disputes as to the effect of the scheme between the existing appointee and the new appointee, between either of them and any other appointee or between different companies which are other appointees are to be referred to such arbitration as may be specified in or determined under the scheme;
- (g) that determinations on such arbitrations and certificates given jointly by two or more such appointees as are mentioned in paragraph (f) above as to the effect of the scheme as between the companies giving the certificates are to be conclusive for all purposes.

[<sup>F25</sup>(3) In a case specified in paragraph 1(3A) above—

- (a) sub-paragraph (2) above shall have effect as if—
  - (i) any reference to the existing appointee were a reference to the transferor;
  - (ii) any reference to the new appointee were a reference to the transferee; and
  - (iii) any reference to any other appointee or appointees were a reference to any other relevant company or companies; and
- (b) paragraph (g) of that sub-paragraph shall have effect as if the reference to two or more such appointees as are mentioned in paragraph (f) of that sub-paragraph were a reference to two or more such persons as are mentioned in that paragraph (as it has effect by virtue of paragraph (a) above).]

#### Textual Amendments

**F25** Sch. 2 para. 5(3) inserted (1.12.2005) by Water Act 2003 (c. 37), ss. 101(1), 105(3), Sch. 8 para. 51(9); S.I. 2005/2714, art. 3(c) (with Sch. para. 8)

#### Modifications etc. (not altering text)

**C8** Sch. 2 para. 5 applied (with modifications) (28.6.2013) by The Water Industry (Specified Infrastructure Projects) (English Undertakers) Regulations 2013 (S.I. 2013/1582), reg. 1(1)(b), Sch. 1 para. 3(3)(f) (with reg. 1(1)(c))

#### *Duties of existing appointee after the scheme comes into force*

- 6
- (1) A scheme under this Schedule may provide for the imposition of duties on the existing appointee and on the new appointee to take all such steps as may be requisite to secure that the vesting in the new appointee, by virtue of the scheme, of any foreign property, right or liability is effective under the relevant foreign law.
  - (2) The provisions of a scheme under this Schedule may require the existing appointee to comply with any directions of the new appointee in performing any duty imposed on the existing appointee by virtue of a provision included in the scheme under sub-paragraph (1) above.
  - (3) A scheme under this Schedule may provide that, until the vesting of any foreign property, right or liability of the existing appointee in the new appointee is effective under the relevant foreign law, it shall be the duty of the existing appointee to hold

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that property or right for the benefit of, or to discharge that liability on behalf of, the new appointee.

- (4) Nothing in any provision included by virtue of this paragraph in a scheme under this Schedule shall be taken as prejudicing the effect under the law of any part of the United Kingdom of the vesting by virtue of the scheme in the new appointee of any foreign property, right or liability.
- (5) A scheme under this Schedule may provide that, in specified cases, foreign property, rights or liabilities that are acquired or incurred by an existing appointee after the scheme comes into force are immediately to become property, rights or liabilities of the new appointee; and such a scheme may make the same provision in relation to any such property, rights or liabilities as can be made, by virtue of the preceding provisions of this paragraph, in relation to foreign property, rights and liabilities vested in the existing appointee when the scheme comes into force.
- (6) References in this paragraph to any foreign property, right or liability are references to any property, right or liability as respects which any issue arising in any proceedings would have to be determined (in accordance with the rules of private international law) by reference to the law of a country or territory outside the United Kingdom.
- (7) Any expenses incurred by an existing appointee in consequence of any provision included by virtue of this paragraph in a scheme under this Schedule shall be met by the new appointee.
- (8) Duties imposed on a company by virtue of this paragraph shall be enforceable in the same way as if they were imposed by a contract between the existing appointee and the new appointee.
- [<sup>F26</sup>(9) In a case specified in paragraph 1(3A) above, the preceding provisions of this paragraph shall have effect as if—
  - (a) any reference to the existing appointee were a reference to the transferor; and
  - (b) any reference to the new appointee were a reference to the transferee.]

#### **Textual Amendments**

**F26** Sch. 2 para. 6(9) inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 51\(10\)](#); [S.I. 2005/2714](#), [art. 3\(c\)](#) (with [Sch. para. 8](#))

#### **Modifications etc. (not altering text)**

**C9** Sch. 2 para. 6 applied (with modifications) (28.6.2013) by [The Water Industry \(Specified Infrastructure Projects\) \(English Undertakers\) Regulations 2013 \(S.I. 2013/1582\)](#), reg. 1(1)(b), [Sch. 1 para. 3\(3\)\(g\)](#) (with reg. 1(1)(c))

#### *Further transitional provision and local statutory provisions*

- 7 (1) The Secretary of State may, if he thinks it appropriate to do so for the purposes of, or in connection with, any appointment or variation replacing a company as a relevant undertaker or any scheme under this Schedule, by order made by statutory instrument—
  - (a) make any provision which corresponds, in relation to any enactment referred to at the passing of the <sup>M3</sup>Water Act 1989 in Schedule 26 to that Act, to any

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- provision originally made by that Schedule or makes similar provision in relation to any other enactment; or
- (b) amend or repeal any local statutory provision.
- (2) An order under this paragraph may—
- (a) make provision applying generally in relation to local statutory provisions of a description specified in the order;
- (b) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and
- (c) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.

**Modifications etc. (not altering text)**

**C10** Sch. 2 para. 7 applied (with modifications) (28.6.2013) by [The Water Industry \(Specified Infrastructure Projects\) \(English Undertakers\) Regulations 2013](#) (S.I. 2013/1582), reg. 1(1)(b), **Sch. 1 para. 3(3)(h)** (with reg. 1(1)(c))

**Marginal Citations**

**M3** 1989 c. 15.

[<sup>F27</sup>SCHEDULE 2A

WATER SUPPLY LICENCES: AUTHORISATIONS

**Textual Amendments**

**F27** Sch. 2A inserted (1.1.2016) by [Water Act 2014](#) (c. 21), s. 94(3), **Sch. 1**; S.I. 2015/1938, art. 3(d)

*Operation of the authorisations in England and Wales*

- 1 In the descriptions of the following authorisations, a reference to the supply system of a water undertaker is a reference to the supply system of a water undertaker whose area is wholly or mainly in England—
- (a) a retail authorisation;
- (b) a wholesale authorisation.
- 2 In the descriptions of the following authorisations, a reference to the supply system of a water undertaker is a reference to the supply system of a water undertaker whose area is wholly or mainly in Wales—
- (a) a restricted retail authorisation;
- (b) a supplementary authorisation.

*Retail authorisation*

- 3 A retail authorisation given by a water supply licence is an authorisation to the water supply licensee to use the supply system of a water undertaker for the purpose of supplying water to the premises of—

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- (a) the licensee,
- (b) persons associated with the licensee, or
- (c) the licensee's customers.

4 None of the premises supplied by a water supply licensee under a retail authorisation may be household premises (as defined in section 17C).

*Wholesale authorisation*

5 A wholesale authorisation given by a water supply licence is an authorisation to the water supply licensee to introduce water into the supply system of a water undertaker—

- (a) by means of which system any particular supply in accordance with a retail authorisation (whether the licensee's or another water supply licensee's) is to take place, and
- (b) where that introduction is to be made in connection with that intended supply.

*Restricted retail authorisation*

6 A restricted retail authorisation given by a water supply licence is an authorisation to the water supply licensee to use the supply system of a water undertaker for the purpose of supplying water to the premises of the licensee's customers.

7 The following requirements must be satisfied in relation to each of the premises to be supplied by a water supply licensee under a restricted retail authorisation—

- (a) the requirement that the premises are not household premises (as defined in section 17C);
- (b) the threshold requirement (construed in accordance with section 17D).

*Supplementary authorisation*

8 A supplementary authorisation given by a water supply licence is an authorisation to the water supply licensee to introduce water into the supply system of a water undertaker—

- (a) by means of which system any particular supply in accordance with the licensee's restricted retail authorisation is to take place, and
- (b) where that introduction is to be made in connection with that intended supply.

*Enforcement and guidance*

9 The requirements in paragraphs 4 and 7 are enforceable by the Authority under section 18.

10 (1) The Authority may from time to time, with the approval of the Secretary of State, issue guidance as to the factors that are, or are not, to be taken into account in determining the extent of any premises for the purposes of paragraphs 4 and 7.

(2) Before giving approval under sub-paragraph (1) the Secretary of State must consult the Welsh Ministers.

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### *Interpretation*

- 11 For the purposes of this Schedule, a person (A) is associated with a water supply licensee (L) if—
- (a) where A and L are bodies corporate, one of them is a subsidiary of the other or both are subsidiaries of the same body corporate;
  - (b) where A or L is an individual or an unincorporated association and the other is a body corporate, that individual or unincorporated association controls the other or a body corporate of which the other is a subsidiary;
  - (c) A is a partnership of which L is a member.
- 12 In paragraph 11 “subsidiary” has the meaning given by section 1159 of the Companies Act 2006; and sections 450(1) to (4) and 451(1) to (3) of the Corporation Taxes Act 2010 (control of a company) apply for the purposes of paragraph 11 as they apply for the purposes of Part 10 of that Act.”]

## [<sup>F28</sup>SCHEDULE 2B

### SEWERAGE LICENCES: AUTHORISATIONS

#### **Textual Amendments**

**F28** Sch. 2B inserted (1.1.2016) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 3](#); [S.I. 2015/1938](#), art. 3(e)

### *Retail authorisation*

- 1 A retail authorisation given by a sewerage licence is an authorisation to the sewerage licensee to use the sewerage system of a sewerage undertaker for the purpose of enabling the licensee to provide sewerage services in respect of the premises of—
- (a) the licensee,
  - (b) persons associated with the licensee, or
  - (c) the licensee's customers.
- 2 None of the premises served by a sewerage licensee under a retail authorisation may be household premises (as defined in section 17C).
- 3 The requirement in paragraph 2 is enforceable by the Authority under section 18.
- 4 The Authority may from time to time, with the approval of the Secretary of State, issue guidance as to the factors which are, or are not, to be taken into account in determining the extent of any premises for the purposes of paragraph 2.

### *Wholesale authorisation*

- 5 A wholesale authorisation given by a sewerage licence is an authorisation to the sewerage licensee to remove matter from the sewerage system of a sewerage undertaker where—
- (a) the sewerage system is being used to enable a sewerage licensee (whether the licensee or another sewerage licensee) to provide sewerage services in respect of premises in accordance with a retail authorisation, and

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- (b) the removing of matter from the sewerage system is done in connection with sewerage services so provided.

#### *Disposal authorisation*

- 6 A disposal authorisation given by a sewerage licence is an authorisation to the sewerage licensee to remove matter from the sewerage system of a sewerage undertaker.
- 7 If a sewerage licensee with a disposal authorisation has, or a person associated with the licensee has, a retail authorisation—
- (a) the licensee or the person associated with it, or both of them, must obtain a wholesale authorisation, and
- (b) neither the licensee nor the person associated with it (if that person has a disposal authorisation) may remove matter from a sewerage system in accordance with the disposal authorisation (or either disposal authorisation, if both have such an authorisation) while matter may be removed in accordance with the wholesale authorisation (or either wholesale authorisation, if both have such an authorisation).

#### *Interpretation*

- 8 For the purposes of this Schedule, a person (A) is associated with a sewerage licensee (L) if—
- (a) where A and L are bodies corporate, one of them is a subsidiary of the other or both are subsidiaries of the same body corporate;
- (b) where A or L is an individual or an unincorporated association and the other is a body corporate, that individual or unincorporated association controls the other or a body corporate of which the other is a subsidiary;
- (c) A is a partnership of which L is a member.
- 9 In paragraph 8 “subsidiary” has the meaning given by section 1159 of the Companies Act 2006; and sections 450(1) to (4) and 451(1) to (3) of the Corporation Taxes Act 2010 (control of a company) apply for the purposes of paragraph 8 as they apply for the purposes of Part 10 of that Act.]

### SCHEDULE 3

Section 23.

### SPECIAL ADMINISTRATION ORDERS

**Modifications etc. (not altering text)**

**C11** Sch. 3 applied (28.6.2013) by [The Water Industry \(Specified Infrastructure Projects\) \(English Undertakers\) Regulations 2013 \(S.I. 2013/1582\)](#), reg. 1(1)(b), **Sch. 1 para. 7(4)** (with reg. 1(1)(c))



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## PART I

### MODIFICATIONS OF THE 1986 ACT

#### *General application of provisions of 1986 Act*

- 1 Where a special administration order has been made, sections 11 to 15, 17 to 23 and 27 of the 1986 Act (which relate to administration orders under Part II of that Act) shall apply, with the modifications specified in the following provisions of this Part of this Schedule—
- (a) as if references in those sections to an administration order were references to a special administration order and references to an administrator were references to a special administrator; <sup>F29</sup> ...
  - <sup>F29</sup>(b) .....

#### **Textual Amendments**

- F29** Sch. 3 para. 1(b) and word omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\), s. 115\(3\)\(r\)](#), [Sch. 23 para. 28\(4\)\(e\)\(i\)](#)

#### *Effect of order*

- 2 In section 11 of the 1986 Act (effect of order), as applied by this Part of this Schedule—
- (a) the requirement in subsection (1)(a) that any petition for the winding up of the company shall be dismissed shall be without prejudice to the special administration order in a case where the order is made by virtue of section 25 of this Act; and
  - <sup>F30</sup>(b) ..... and
  - (c) the reference in subsection (3)(d) to proceedings shall include a reference to any proceedings under or for the purposes of section 18 of this Act.

#### **Textual Amendments**

- F30** Sch. 3 para. 2(b) omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\), s. 115\(3\)\(r\)](#), [Sch. 23 para. 28\(4\)\(e\)\(ii\)](#)

#### *Appointment of special administrator*

- 3 In section 13 of the 1986 Act (appointment of administrator), as applied by this Part of this Schedule, for subsection (3) there shall be substituted the following subsection—
- “(3) An application for an order under subsection (2) may be made—
- (a) by the Secretary of State;
  - (b) with the consent of the Secretary of State, by the Director General of Water Services;
  - (c) by any continuing special administrator of the company or, where there is no such special administrator, by the company, the directors or any creditor or creditors of the company.”

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### *General powers of special administrator*

- 4 In section 14 of the 1986 Act (general powers of administrator), as applied by this Part of this Schedule
- (a) in subsection (1)(b), the reference to the powers specified in Schedule 1 to that Act shall be deemed to include a reference to a power to act on behalf of the company for the purposes of this Act, any local statutory provision or the exercise or performance of any power or duty which is conferred or imposed on the company by virtue of its holding an appointment under Chapter I of Part II of this Act [<sup>F31</sup>or a licence under Chapter 1A of that Part] ; and
  - (b) in subsection (4), the reference to a power conferred by the company's [<sup>F32</sup>articles of association] shall be deemed to include a reference to a power conferred by a local statutory provision or by virtue of the company's holding such an appointment [<sup>F33</sup>or licence] .

#### **Textual Amendments**

- F31** Words in Sch. 3 para. 4(a) inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 52\(2\)\(a\)](#); S.I. 2005/2714, [art. 3\(c\)](#) (with Sch. para. 8)
- F32** Words in Sch. 3 para. 4(b) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order (S.I. 2009/1941), art. 2(1), {Sch. 1 para. 126(4)} (with art. 10)
- F33** Words in Sch. 3 para. 4(b) inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 52\(2\)\(b\)](#); S.I. 2005/2714, [art. 3\(c\)](#) (with Sch. para. 8)

### *Power to deal with charged property*

- 5 (1) Section 15 of the 1986 Act (power to deal with charged property), as applied by this Part of this Schedule, shall have effect as follows.
- (2) In subsection (5)(b) (amount to be paid to chargeholder not to be less than open market value), for the words “in the open market by a willing vendor” there shall be substituted the words “ for the best price which is reasonably available on a sale which is consistent with the purposes of the special administration order ”.

<sup>F34</sup>(3) .....

#### **Textual Amendments**

- F34** [Sch. 3 para. 5\(3\)](#) omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(r), [Sch. 23 para. 28\(4\)\(e\)\(iii\)](#)

### *Duties of special administrator*

- 6 (1) Section 17 of the 1986 Act (duties of administrator), as applied by this Part of this Schedule, shall have effect as follows.
- (2) For subsection (2) there shall be substituted the following subsection—
- “(2) Subject to any directions of the court, it shall be the duty of the special administrator to manage the affairs, business and property of the company

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in accordance with proposals, as for the time being revised under section 23, which have been prepared for the purposes of that section by him or any predecessor of his.”

- (3) In subsection (3), paragraph (a) (right of creditors to require the holding of a creditors’ meeting) shall be omitted.

*Discharge of order*

- 7 (1) Section 18 of the 1986 Act (discharge and variation of administration order), as applied by this Part of this Schedule, shall have effect as follows.

- (2) For subsections (1) and (2) there shall be substituted the following subsection—

“(1) An application for a special administration order to be discharged may be made—

- (a) by the special administrator, on the ground that the purposes of the order have been achieved; or
- (b) by the Secretary of State or, with the consent of the Secretary of State, the Director General of Water Services, on the ground that it is no longer necessary that those purposes are achieved.”

- (3) In subsection (3), the words “or vary” shall be omitted.

- (4) In subsection (4), the words “or varied” and “or variation” shall be omitted and for the words “to the registrar of companies” there shall be substituted—

<sup>F35</sup>(a) .....

- (b) <sup>F36</sup>... the words “to the registrar of companies and to the Director General of Water Services”.

**Textual Amendments**

**F35** Sch. 3 para. 7(4)(a) and word omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\), s. 115\(3\)\(r\)](#), [Sch. 23 para. 28\(4\)\(e\)\(iv\)](#)

**F36** Words in Sch. 3 para. 7(4)(b) omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\), s. 115\(3\)\(r\)](#), [Sch. 23 para. 28\(4\)\(e\)\(v\)](#)

*Notice of making of order*

- 8 In section 21(2) of the 1986 Act (notice of order to be given by administrator), as applied by this Part of this Schedule, for the words “to the registrar of companies” there shall be substituted—

<sup>F37</sup>(a) .....

- (b) <sup>F38</sup>... the words “to the registrar of companies, to the Director General of Water Services”.

**Textual Amendments**

**F37** Sch. 3 para. 8(a) and word omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\), s. 115\(3\)\(r\)](#), [Sch. 23 para. 28\(4\)\(e\)\(vi\)](#)

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**F38** Words in Sch. 3 para. 8(b) omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(r), Sch. 23 para. 28(4)(e)(vii)

### *Statement of proposals*

9 In section 23 of the 1986 Act (statement of proposals), as applied by this Part of this Schedule, for subsections (1) and (2) there shall be substituted the following subsections—

“(1) Where a special administration order has been made, the special administrator shall, within 3 months (or such longer period as the court may allow) after the making of the order, send a statement of his proposals for achieving the purposes of the order—

- (a) to the Secretary of State and to the Director General of Water Services;
- (b) so far as he is aware of their addresses, to all creditors of the company; and
- (c) <sup>F39</sup>... to the registrar of companies;

and may from time to time revise those proposals.

(2) If at any time—

- (a) the special administrator proposes to make revisions of the proposals for achieving the purposes of the special administration order; and
- (b) those revisions appear to him to be substantial,

the special administrator shall, before making those revisions, send a statement of the proposed revisions to the Secretary of State, to the Director General of Water Services, (so far as he is aware of their addresses) to all creditors of the company and <sup>F40</sup>... to the registrar of companies.

(2A) Where the special administrator is required by subsection (1) or (2) to send any person a statement before the end of any period or before making any revision of any proposals, he shall also, before the end of that period or, as the case may be, before making those revisions either—

- (a) send a copy of the statement (so far as he is aware of their addresses) to all members of the company; or
- (b) publish in the prescribed manner a notice stating an address to which members should write for copies of the statement to be sent to them free of charge.”

#### **Textual Amendments**

**F39** Words in Sch. 3 para. 9 omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(r), Sch. 23 para. 28(4)(e)(viii)

**F40** Words in Sch. 3 para. 9 omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(r), Sch. 23 para. 28(4)(e)(ix)

### *Applications to court*

10 (1) Section 27 of the 1986 Act (protection of interests of creditors and members), as applied by this Part of this Schedule, shall have effect as follows.

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(2) After subsection (1) there shall be inserted the following subsection—

“(1A) At any time when a special administration order is in force the Secretary of State or, with the consent of the Secretary of State, the Director General of Water Services may apply to the High Court by petition for an order under this section on the ground that the special administrator has exercised or is exercising, or proposing to exercise, his powers in relation to the company in a manner which—

- (a) will not best ensure the achievement of the purposes of the order; or
- (b) without prejudice to paragraph (a) above, involves either a contravention of the conditions of the company’s appointment under Chapter I of Part II of the Water Industry Act 1991 [<sup>F41</sup>or its licence under Chapter 1A of that Part] or of any statutory or other requirement imposed on the company in consequence of that appointment [<sup>F42</sup>or licence] .”

(3) In subsection (3) (order not to prejudice or prevent voluntary arrangements or administrator’s proposals), for paragraphs (a) and (b) there shall be substituted the words “ the achievement of the purposes of the order ”.

(4) Subsections (4)(d) and (6) (power of court to order discharge) shall be omitted.

#### Textual Amendments

- F41** Words in Sch. 3 para. 10(2) inserted (1.12.2005) by Water Act 2003 (c. 37), ss. 101(1), 105(3), Sch. 8 para. 52(3)(a); S.I. 2005/2714, art. 3(e) (with Sch. para. 8)
- F42** Words in Sch. 3 para. 10(2) inserted (1.12.2005) by Water Act 2003 (c. 37), ss. 101(1), 105(3), Sch. 8 para. 52(3)(b); S.I. 2005/2714, art. 3(e) (with Sch. para. 8)

## PART II

### SUPPLEMENTAL

#### *General adaptations and saving*

- 11 (1) Subject to the preceding provisions of this Schedule, references in the 1986 Act (except in sections 8 to 10 and 24 to 26), or in any other enactment passed before 6th July 1989, to an administration order under Part II of that Act, to an application for such an order and to an administrator shall include references, respectively, to a special administration order, to an application for a special administration order and to a special administrator.
- (2) Subject as aforesaid and to sub-paragraph (3) below, references in the 1986 Act, or in any other enactment passed before 6th July 1989, to an enactment contained in Part II of that Act shall include references to that enactment as applied by section 24 of this Act or Part I of this Schedule.
- (3) Sub-paragraphs (1) and (2) above shall apply in relation to a reference in an enactment contained in Part II of the 1986 Act only so far as necessary for the purposes of the operation of the provisions of that Part as so applied.

*Status: Point in time view as at 01/03/2017.*

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- (4) The provisions of this Schedule shall be without prejudice to the power conferred by section 411 of the 1986 Act (company insolvency rules), as modified by subparagraphs (1) and (2) above.

*Interpretation*

- 12 (1) In this Schedule “the 1986 Act” means the <sup>M4</sup>Insolvency Act 1986.
- (2) In this Schedule, and in any modification of the 1986 Act made by this Schedule, “special administrator”, in relation to a special administration order, means any person appointed in relation to that order for the purposes of section 23(1) of this Act; and in any such modification “special administration order” has the same meaning as in this Act.

**Marginal Citations**

**M4** 1986 c. 45.

[<sup>F43</sup>SCHEDULE 3A

Section 27A(11)

THE CONSUMER COUNCIL FOR WATER

**Textual Amendments**

**F43** Sch. 3A inserted (1.10.2005) by Water Act 2003 (c. 37), ss. 35(2), 105(3), Sch. 2; S.I. 2005/2714, art. 2(a)(i) (with Sch. para. 8)

*Membership of Council*

- 1 (1) The Council shall consist of—
- (a) a chairman appointed by the Secretary of State;
  - (b) one other member appointed by the Assembly; and
  - (c) such other members as may be appointed by the Secretary of State.
- (2) The Secretary of State shall consult the Assembly before appointing the chairman.
- (3) The Secretary of State and the Assembly shall consult the chairman before appointing any other member.
- (4) An appointment under this paragraph shall be for a term not exceeding five years.
- (5) In appointing persons under this paragraph the Secretary of State and the Assembly shall have regard to the desirability of including among the members one or more persons who—
- (a) have experience of work among, and the special needs of, disabled persons;
  - or
  - (b) have or have had a disability.

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### *Membership of Council*

- 2
- (1) A person holding office as chairman or other member may resign that office by giving notice to the Secretary of State (in the case of a member appointed by him), or to the Assembly (in the case of a member appointed by the Assembly).
  - (2) The Secretary of State may remove any person appointed by him from office as chairman or other member on the ground of incapacity or misbehaviour.
  - (3) The Secretary of State shall consult the Assembly before removing any person appointed by him as chairman.
  - (4) The Assembly may remove any person appointed by it from office as member on the ground of incapacity or misbehaviour.
  - (5) Otherwise, the chairman and other members shall hold and vacate office as such in accordance with the terms of their respective appointments.
  - (6) A previous appointment as chairman or other member does not affect a person's eligibility for appointment to either office.

### *Terms of appointment, remuneration, pensions etc*

- 3
- The Council shall pay to the chairman and other members of the Council such remuneration, and such travelling and other allowances, as the Secretary of State may determine.

### *Terms of appointment, remuneration, pensions etc*

- 4
- (1) If the Secretary of State so determines in the case of any holder of the office of chairman or other member, the Council shall pay—
    - (a) such pension, allowance or gratuity to or in respect of him, or
    - (b) such contributions or payments towards provision for such a pension, allowance or gratuity,as the Secretary of State may determine.
  - (2) If, when any person ceases to hold office as chairman or other member, the Secretary of State determines that there are special circumstances which make it right that he should receive compensation, the Council shall pay to him a sum by way of compensation of such amount as may be determined by the Secretary of State.

### *Members appointed by Assembly*

- 5
- In relation to any member of the Council appointed by the Assembly, the matters mentioned in paragraphs 3 and 4 above shall be determined by the Assembly instead of by the Secretary of State.

### *Staff*

- 6
- (1) The Council shall, with the approval of the Secretary of State, appoint a principal officer on such terms of employment as it may, with that approval, determine.
  - (2) The Council may, with the approval of the Secretary of State as to numbers and terms of employment, appoint such other employees as it may determine.

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- (3) The persons to whom section 1 of the Superannuation Act 1972 (persons to or in respect of whom benefits may be provided by schemes under that section) applies shall include employees of the Council.
- (4) The Council shall pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to sub-paragraph (3) above in the sums payable out of money provided by Parliament under the Superannuation Act 1972.

#### *Annual reports*

- 7 (1) As soon as practicable after the end of each financial year the Council shall report to the Secretary of State on its activities during the year.
- (2) The annual report for each year shall include a report on the progress of the projects described in the Council's forward work programme for that year.
- (3) In making any report under this paragraph the Council shall not include any information which relates to the affairs of a particular individual or body of persons (corporate or unincorporate) unless one or more of paragraphs (a) to (c) of sub-paragraph (4) below applies to the information.
- (4) Information relating to a particular individual or body may be included in the report if—
  - (a) that individual or body has consented to its inclusion;
  - (b) it is information that is available to the public from some other source; or
  - (c) it is not information the publication of which would or might, in the opinion of the Council, seriously and prejudicially affect the interests of that individual or body.
- (5) Before deciding to include any information relating to a particular individual or body in pursuance of sub-paragraph (4)(c) above, the Council shall—
  - (a) consult that person or body; and
  - (b) have regard to any opinion expressed by the Authority as to the application of sub-paragraph (4)(c) above to the information or as to the desirability or otherwise of its publication,
 and paragraph (b) applies whether the opinion is given in relation to information itself or to information of a description which applies to that information.
- (6) In making any report under this paragraph the Council shall not include any information which it considers relates to any matter which is, or is likely to be, the subject of criminal proceedings.
- (7) In considering whether information relates to any matter as mentioned in sub-paragraph (6) above, the Council shall have regard to any opinion expressed (whether in relation to the information itself or to information of a description which applies to that information) by the Secretary of State, the Assembly or the Director of Public Prosecutions.
- (8) The Secretary of State shall lay a copy of each annual report of the Council before each House of Parliament.



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- (9) The Council shall send a copy of each annual report to the Authority and the Assembly and shall arrange for the report to be published in such further manner as it considers appropriate.

*Financial provisions and accounts*

- 8 (1) It shall be the duty of the Council to comply with any notice given by the Secretary of State requiring it to perform duties of a financial nature specified in the notice.
- (2) The Secretary of State shall consult the Assembly before giving any notice to the Council under sub-paragraph (1) above.

*Financial provisions and accounts*

- 9 (1) The Council shall prepare, in respect of each financial year, a statement of accounts giving a true and fair view of the state of affairs and the income and expenditure of the Council.
- (2) The statement of accounts shall comply with any requirement which the Secretary of State has notified to the Council.
- (3) The Council shall, within such period after the end of the financial year to which it relates as the Secretary of State may specify by notice given to the Council, send copies of each statement of accounts of the Council to—
- (a) the Secretary of State and the Assembly; and
  - (b) the Comptroller and Auditor General.
- (4) The Comptroller and Auditor General shall—
- (a) examine, certify and report on every statement sent to him under sub-paragraph (3) above; and
  - (b) lay a copy of the statement and of his report before each House of Parliament.

*Financial provisions and accounts*

- 10 The Secretary of State and the Assembly shall pay to the Council such sums as he or it thinks fit to enable it to meet its expenses.

*Regional committees*

- 11 (1) The Council shall not establish or abolish a regional committee, or alter the allocation of a relevant undertaker to a regional committee, without the approval of the appropriate authority.
- (2) If the Council proposes to do anything mentioned in sub-paragraph (1) above it shall, after consulting the appropriate authority, give notice—
- (a) describing its proposals; and
  - (b) specifying the time from the date of the notice (not being less than two months) within which representations may be made with respect to the proposals;
- and shall consider any representations that are duly made and not withdrawn.

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- (3) A notice under sub-paragraph (2) above shall be given by publishing it in such manner as the Council considers appropriate for bringing the proposals to the attention of those likely to be affected.
- (4) An appropriate authority shall not give its approval under sub-paragraph (1) above until after the time specified in the notice under sub-paragraph (2) above.

*Regional committees*

- 12 (1) A regional committee of the Council shall consist of—
  - (a) a chairman appointed by the appropriate authority;
  - (b) such other members as the Council may appoint.
- (2) Any regional committee may establish sub-committees.
- (3) The members of a regional committee of the Council may include persons who are not members of the Council (and the members of a sub-committee of the committee may include persons who are not members of the committee or the Council).
- (4) In appointing members of a regional committee the Council shall take account of any guidance given to them by the appropriate authority.
- (5) The Council may pay to the chairman and other members of a regional committee, or a sub-committee, such remuneration, and such travelling and other allowances, as the appropriate authority may determine.

*Regional committees*

- 13 (1) If the appropriate authority so determines in the case of any holder of the office of chairman or other member of a regional committee, or of any sub-committee of a regional committee, the Council shall pay—
  - (a) such pension, allowance or gratuity to or in respect of him; or
  - (b) such contributions or payments towards provision for such a pension, allowance or gratuity,
 as the appropriate authority may determine.
- (2) If, when any person ceases to hold office as chairman or other member of a regional committee, the appropriate authority determines that there are special circumstances which make it right that he should receive compensation, the Council shall pay to him a sum by way of compensation of such amount as may be determined by the appropriate authority.

*Regional committees*

- 14 In paragraphs 11 to 13 above the “appropriate authority” means—
  - (a) the Assembly, in relation to committees established (or proposed to be established) for relevant undertakers whose areas are wholly or mainly in Wales, to sub-committees of those committees, and to any relevant undertaker whose area is wholly or mainly in Wales;
  - (b) the Secretary of State, in relation to committees established (or proposed to be established) for other relevant undertakers, to sub-committees of those committees, and to any other relevant undertaker.

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*Other committees*

- 15 (1) The Council may establish committees other than regional committees and any such committee may establish sub-committees.
- (2) The members of any such committee may include persons who are not members of the Council (and the members of a sub-committee may include persons who are not members of the relevant committee or the Council).
- (3) The Council may pay to the chairman and other members of any such committee, or of a sub-committee, such remuneration, and such travelling and other allowances, as the Secretary of State may determine.

*Other committees*

- 16 (1) If the Secretary of State so determines in the case of any holder of the office of chairman or other member of any such committee, or of any sub-committee of such a committee, the Council shall pay—
- (a) such pension, allowance or gratuity to or in respect of him; or
- (b) such contributions or payments towards provision for such a pension, allowance or gratuity,
- as the Secretary of State may determine.
- (2) If, when any person ceases to hold office as chairman or other member of any such committee, or of any sub-committee of such a committee, the Secretary of State determines that there are special circumstances which make it right that he should receive compensation, the Council shall pay to him a sum by way of compensation of such amount as may be determined by the Secretary of State.

*Performance of functions of the Council*

- 17 Anything authorised or required to be done by the Council may be done by any member or employee of the Council who, or any regional or other committee of the Council which, is authorised for the purpose by the Council (whether generally or specially).

*Performance of functions of the Council*

- 18 The validity of anything done by the Council is not affected by a vacancy among its members or by a defect in the appointment of a member.

*Supplementary powers*

- 19 (1) The Council shall have power to do anything which is calculated to facilitate, or is incidental or conducive to, the performance of any of its functions.
- (2) That power includes, among other things, power to enter into agreements and to acquire and dispose of property.
- (3) The Council may make charges for facilities or services provided by it at the request of any person.

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*First financial year of the Council*

- 20 (1) If the period beginning with the day on which the Council is established and ending with the next 31st March is six months or more, the first financial year of the Council is that period.
- (2) If the period mentioned in sub-paragraph (1) above is less than six months, the first financial year of the Council is the period beginning with the day on which the body is established and ending with 31st March in the following year.

*Compensation for members of customer service committees*

- 21 The Authority may pay to any person who immediately before the abolition by the Water Act 2003 of a customer service committee established under section 28(1) of this Act is the chairman of that body such sums by way of compensation for loss of office, or loss or diminution of pension rights, as the Secretary of State may determine.]

<sup>F44</sup>SCHEDULE 4

**Textual Amendments**

**F44** Sch. 4 repealed (1.10.2005) by Water Act 2003 (c. 37), ss. 35(4), 101(2), 105(3), Sch. 9 Pt. 2; S.I. 2005/2714, art. 2(a)(ii) (with Sch. para. 8)

<sup>F45</sup>SCHEDULE 4ZA

Section 34

APPLICATION OF PROVISIONS OF ENTERPRISE  
ACT 2002 TO MERGERS OF WATER ENTERPRISES

**Textual Amendments**

**F45** Sch. 4ZA inserted (29.12.2004) by Enterprise Act 2002 (c. 40), ss. 70(2), 279, Sch. 6; S.I. 2004/3233, art. 2, Sch. (with transitional provisions and savings in arts. 3-5)

- 1 Part 3 of the 2002 Act (and any other provisions of that Act so far as relating to that Part) shall apply, with such prescribed modifications as the Secretary of State considers to be necessary or expedient, in relation to water mergers and merger references under section 32 of this Act as it applies in relation to relevant merger situations and references under Part 3 of that Act.
- 2 The modifications made by virtue of paragraph 1 above shall include modifications to give effect to paragraphs <sup>F46</sup>2A to 6] below.

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**F46** Words in Sch. 4ZA para. 2 substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 93\(2\)](#) (with art. 3)

[<sup>F47</sup>2A. Where a reference is made to the chair of the CMA under section 32 for the constitution of a group under Schedule 4 to the Enterprise and Regulatory Reform Act 2013, the functions of the CMA in relation to the matter are to be carried out on behalf of the CMA by the group so constituted in any case where those functions would be carried out by a group so constituted in relation to a reference under Part 3 of that Act.]

**Textual Amendments**

**F47** Sch. 4ZA para. 2A inserted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 93\(3\)](#) (with art. 3)

- 3 (1) The first questions to be decided by the [<sup>F48</sup>CMA] on a merger reference under section 32(a) of this Act shall be—
- (a) whether arrangements are in progress which, if carried into effect, will result in a water merger; and
  - (b) if so, whether that merger may be expected to prejudice the ability of the Director, in carrying out his functions by virtue of this Act, to make comparisons between different water enterprises.
- (2) The first questions to be decided by the [<sup>F48</sup>CMA] on a merger reference under section 32(b) of this Act shall be—
- (a) whether a water merger has taken place; and
  - (b) if so, whether that merger has prejudiced, or may be expected to prejudice, the ability of the Director, in carrying out his functions by virtue of this Act, to make comparisons between different water enterprises.
- (3) Any decision of the [<sup>F49</sup>CMA] on a merger reference under section 32(a) of this Act that arrangements are in progress which, if carried into effect, will result in a water merger shall be treated as a decision that no arrangements are in progress which, if carried into effect, will result in a water merger if the decision is not that of at least two-thirds of the members of the group constituted in connection with the reference [<sup>F50</sup>under Schedule 4 to the Enterprise and Regulatory Reform Act 2013] .
- (4) Any decision of the [<sup>F49</sup>CMA] on a merger reference under section 32(a) of this Act that a water merger may be expected to prejudice the ability of the Director, in carrying out his functions by virtue of this Act, to make comparisons between different water enterprises shall be treated as a decision that the water merger may be expected not to prejudice that ability of the Director if the decision is not that of at least two-thirds of the members of the group constituted in connection with the reference [<sup>F50</sup>under Schedule 4 to the Enterprise and Regulatory Reform Act 2013] .
- (5) Any decision of the [<sup>F49</sup>CMA] on a merger reference under section 32(b) of this Act that a water merger has taken place shall be treated as a decision that no water merger

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has taken place if the decision is not that of at least two-thirds of the members of the group constituted in connection with the reference in [F50 under Schedule 4 to the Enterprise and Regulatory Reform Act 2013] .

- (6) Any decision of the [F49 CMA] on a merger reference under section 32(b) of this Act that a water merger has prejudiced, or may be expected to prejudice, the ability of the Director, in carrying out his functions by virtue of this Act, to make comparisons between different water enterprises shall be treated as a decision that the water merger has not prejudiced, or may be expected not to prejudice, that ability of the Director if the decision is not that of at least two-thirds of the members of the group constituted in connection with the reference [F50 under Schedule 4 to the Enterprise and Regulatory Reform Act 2013] .

#### Textual Amendments

- F48** Word in Sch. 4ZA para. 3(1)(2) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 93\(4\)\(a\)](#) (with art. 3)
- F49** Word in Sch. 4ZA para. 3(3)-(6) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 93\(4\)\(b\)\(i\)](#) (with art. 3)
- F50** Words in Sch. 4ZA para. 3(3)-(6) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 93\(4\)\(b\)\(ii\)](#) (with art. 3)

- 4 (1) In deciding, on a merger reference under section 32(a) of this Act whether to take action for the purpose of remedying, mitigating or preventing the prejudice to the Director or any adverse effect which may be expected to result from the prejudice to the Director and, if so, what action should be taken, the [F51 CMA] may, in particular, have regard to the effect of any such action on any relevant customer benefits in relation to the merger concerned provided that—
- (a) a consideration of those benefits would not prevent a solution to the prejudice concerned; or
  - (b) the benefits which may be expected to accrue are substantially more important than the prejudice concerned.
- (2) In deciding, on a merger reference under section 32(b) of this Act whether to take action for the purpose of remedying, mitigating or preventing the prejudice to the Director or any adverse effect which has resulted from, or may be expected to result from, the prejudice to the Director and, if so, what action should be taken, the [F51 CMA] may, in particular, have regard to the effect of any such action on any relevant customer benefits in relation to the merger concerned provided that—
- (a) a consideration of those benefits would not prevent a solution to the prejudice concerned; or
  - (b) the benefits which have accrued, or may be expected to accrue, are substantially more important than the prejudice concerned.
- (3) This paragraph is without prejudice to the power of the Secretary of State to provide in regulations made under paragraph 1 above for other matters to which the [F51 CMA] may or must have regard in deciding the questions as mentioned in sub-paragraph (1) or (2) above (including matters which are to take priority over the effect of action on relevant customer benefits).

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#### Textual Amendments

**F51** Word in Sch. 4ZA para. 4 substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 93\(5\)](#) (with art. 3)

- 5 (1) No enforcement action shall be taken on a merger reference under section 32(b) of this Act in respect of an actual merger unless the reference was made within the period of four months beginning with whichever is the later of—
- (a) the day on which the merger took place; and
  - (b) the day on which the material facts about the transactions which resulted in the merger first came to the attention of the [<sup>F52</sup>CMA] or were made public (within the meaning given by section 24(3) of the 2002 Act).
- (2) This paragraph is without prejudice to the power of the Secretary of State to provide in regulations made under paragraph 1 above for extensions of the four month period; and, if any such provision is made in such regulations, the provision which is to be made in regulations under paragraph 1 above by virtue of sub-paragraph (1) above or paragraph 6 below may be adjusted accordingly.

#### Textual Amendments

**F52** Word in Sch. 4ZA para. 5 substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 93\(6\)](#) (with art. 3)

- 6 If, on a merger reference under section 32(b) of this Act, the [<sup>F53</sup>CMA] are satisfied that the reference was not made within the period of four months mentioned in paragraph 5 above, its report on the reference shall state that fact.

#### Textual Amendments

**F53** Word in Sch. 4ZA para. 6 substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 93\(7\)](#) (with art. 3)

- 7 (1) For the purposes of this Schedule a benefit is a relevant customer benefit if—
- (a) it is a benefit to relevant customers in the form of—
    - (i) lower prices, higher quality or greater choice of goods or services in any market in the United Kingdom; or
    - (ii) greater innovation in relation to such goods or services; and
  - (b) the [<sup>F54</sup>CMA] believes—
    - (i) in the case of a merger reference under section 32(a) of this Act, as mentioned in sub-paragraph (2) below; and
    - (ii) in the case of a merger reference under section 32(b) of this Act, as mentioned in sub-paragraph (3) below.
- (2) The belief, in the case of a merger reference under section 32(a) of this Act, is that—
- (a) the benefit may be expected to accrue within a reasonable period as a result of the merger concerned; and

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- (b) the benefit is unlikely to accrue without the merger concerned or a similar prejudice to the Director.
- (3) The belief, in the case of a merger reference under section 32(b) of this Act is that—
  - (a) the benefit has accrued as a result of the merger concerned or may be expected to accrue within a reasonable period as a result of the merger concerned; and
  - (b) the benefit was, or is, unlikely to accrue without the merger concerned or a similar prejudice to the Director.
- (4) In sub-paragraph (1) above “relevant customers” means—
  - (a) customers of any person carrying on an enterprise which, in the merger concerned, has ceased to be, or (as the case may be) will cease to be, a distinct enterprise;
  - (b) customers of such customers; and
  - (c) any other customers in a chain of customers beginning with the customers mentioned in paragraph (a);
 and in this sub-paragraph “customers” includes future customers.

#### Textual Amendments

**F54** Word in Sch. 4ZA para. 7 substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 93\(7\)](#) (with art. 3)

- 8 In this Schedule—
- “customers”, “goods”, “market in the United Kingdom”, “services” and “relevant merger situation” have the same meanings as in Part 3 of the 2002 Act; and
  - “water merger” means a merger of any two or more water enterprises.]

## [<sup>F55</sup>SCHEDULE 4A

### PREMISES THAT ARE NOT TO BE DISCONNECTED FOR NON-PAYMENT OF CHARGES

#### Textual Amendments

**F55** Sch. 4A inserted (30.6.1999) by [1999 c. 9, ss. 1\(2\), 17\(2\)](#), [Sch. 1](#)

- 1 (1) Any dwelling which is occupied by a person as his only or principal home.
- (2) In this paragraph “dwelling” means—
- (a) a private dwelling-house (which may be a building or part of a building),
  - (b) a caravan within the meaning of Part I of the <sup>M5</sup>Caravan Sites and Control of Development Act 1960 (disregarding the amendment made by section 13(2) of the <sup>M6</sup>Caravan Sites Act 1968), or
  - (c) a boat or similar structure designed or adapted for use as a place of permanent habitation.



*Status: Point in time view as at 01/03/2017.*

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#### Marginal Citations

**M5** 1960 c.62.

**M6** 1968 c.52.

- 2 (1) Any house in multiple occupation which does not constitute a dwelling within the meaning of paragraph 1 above and in which any person has his only or principal home.

[<sup>F56</sup>(2) In this paragraph “house in multiple occupation” means a house in multiple occupation as defined by sections 254 to 259 of the Housing Act 2004, as they have effect for the purposes of Part 1 of that Act (that is, without the exclusions contained in Schedule 14 to that Act).]

#### Textual Amendments

**F56** Sch. 4A para. 2(2) substituted (6.4.2006 for E. and 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), ss. 265(1), 270, {Sch. 15 para. 36}); [S.I. 2006/1060](#), [art. 2\(1\)\(d\)](#); [S.I. 2006/1535](#), [art. 2\(b\)](#)

- 3 (1) Accommodation for the elderly in which a person has his only or principal home.
- (2) In this paragraph “accommodation for the elderly” means residential accommodation to which sub-paragraph (3) or (4) below applies, but which is not a dwelling within the meaning of paragraph 1 above or a house in multiple occupation within the meaning of paragraph 2 above.
- (3) This sub-paragraph applies to residential accommodation—
- which is particularly suitable, having regard to its location, size, design, heating systems and other features, for occupation by elderly persons,
  - which it is the practice of the landlord to let for occupation by persons aged 60 or more, and
  - where the services of a warden are provided.
- (4) This sub-paragraph applies to any building or part of a building designed or adapted for use as residential accommodation for elderly persons.

[<sup>F574</sup> A hospital as defined by section 275 of the National Health Service Act 2006 in relation to England or section 206 of the National Health Service (Wales) Act 2006 in relation to Wales.]

#### Textual Amendments

**F57** Sch. 4A para. 4 substituted (6.4.2010) by [The Health and Social Care Act 2008 \(Consequential Amendments\) Order 2010 \(S.I. 2010/750\)](#), arts. 1(1), 2

- 5 Premises used for the provision of medical services by a registered medical practitioner.
- 6 Premises used for the provision of dental services by a person who under the <sup>M7</sup>Dentists Act 1984 is permitted to practise dentistry.

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### Marginal Citations

M7 1984 c.24.

[<sup>F587</sup> Premises not falling within paragraph 5 or 6 above which are used for the provision of primary medical services or primary dental services under [<sup>F59</sup> the National Health Service Act 2006 or the National Health Service (Wales) Act 2006] .]

### Textual Amendments

**F58** Sch. 4A para. 7 substituted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 184, 199, **Sch. 11 para. 58**; S.I. 2004/288, **art. 5(2)(v)** (as amended by S.I. 2004/866, S.I. 2004/1009 and S.I. 2005/2925); S.I. 2004/480, **art. 4(2)(z)** (as amended by S.I. 2006/345)

**F59** Words in Sch. 4A para. 7 substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 139(a)**

[ (1) A care home or independent hospital.

<sup>F608</sup>

(2) In this paragraph—

“care home” means—

- (a) a care home within the meaning of the Care Standards Act 2000;
- (b) <sup>F61</sup> ...
- (c) [<sup>F62</sup> a building or part of a building in which accommodation is provided under Part 1 of the Care Act 2014;]
- (d) [<sup>F63</sup> a building or part of a building—
  - (i) in which accommodation is provided under Part 4 of the Social Services and Well-being (Wales) Act 2014; and
  - (ii) which is not part of premises any part of which is a children’s home within the meaning of the Care Standards Act 2000;]

<sup>F64</sup> ...

[ In this paragraph “independent hospital”, in relation to England, means—

- <sup>F65</sup>(3) (a) an establishment, not being a health service hospital as defined by section 275 of the National Health Service Act 2006,—
- (i) the main purpose of which is to provide medical or psychiatric treatment for illness or mental disorder or palliative care; or
  - (ii) in which (whether or not other services are provided) any of the services listed in sub-paragraph (5) are provided; or
- (b) any other establishment, not being a health service hospital as so defined, in which treatment or nursing (or both) are provided for persons liable to be detained under the Mental Health Act 1983.

(4) In this paragraph “independent hospital”, in relation to Wales, means an independent hospital within the meaning of the Care Standards Act 2000.

(5) The services referred to in sub-paragraph (3)(a)(ii) are as follows—

- (a) medical treatment under anaesthesia or intravenously administered sedation;
- (b) dental treatment under general anaesthesia;
- (c) obstetric services and, in connection with childbirth, medical services;
- (d) termination of pregnancies;

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- (e) cosmetic surgery, other than—
  - (i) ear and body piercing,
  - (ii) tattooing,
  - (iii) the subcutaneous injection of a substance or substances into the skin for cosmetic purposes, or
  - (iv) the removal of hair roots or small blemishes on the skin by the application of heat using an electric current.
- (6) In sub-paragraph (3)(a)(i)—
  - (a) “illness” includes any injury; and
  - (b) “mental disorder” has the same meaning as in the Mental Health Act 1983.]]

#### Textual Amendments

- F60** Sch. 4A paras. 8, 9 substituted (1.4.2002) by 2000 c. 14, s. 116, Sch. 4 para. 18; S.I. 2001/4150, art. 3(3)(a) (subject to transitional provisions in art. 4 and S.I. 2002/1493, art. 4); S.I. 2002/920, **art. 3(3)(d)** (with transitional provisions and savings in arts. 3(4)-(10), Schs. 1-3)
- F61** Words in Sch. 4A para. 8(2) omitted (6.4.2016) by virtue of The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **129(a)**
- F62** Words in Sch. 4A para. 8(2) inserted (1.4.2015) by The Care Act 2014 and Children and Families Act 2014 (Consequential Amendments) Order 2015 (S.I. 2015/914), art. 1(2), **Sch. para. 53** (with arts. 1(3), 3)
- F63** Words in Sch. 4A para. 8(2) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **129(b)**
- F64** Words in Sch. 4A para. 8(2) omitted (1.10.2010) by virtue of The Health and Social Care Act 2008 (Consequential Amendments No.3) Order 2010 (S.I. 2010/2224), arts. 1(1), **2(a)**
- F65** Sch. 4A para. 8(3)-(6) inserted (1.10.2010) by The Health and Social Care Act 2008 (Consequential Amendments No.3) Order 2010 (S.I. 2010/2224), arts. 1(1), **2(b)**

<sup>F66</sup>9 A children’s home within the meaning of the Care Standards Act 2000.

#### Textual Amendments

- F66** Sch. 4A paras. 8, 9 substituted (1.4.2002) by 2000 c. 14, s. 116, Sch. 4 para. 18; S.I. 2001/4150, art. 3(3)(a) (subject to transitional provisions in art. 4 and S.I. 2002/1493, art. 4); S.I. 2002/920, **art. 3(3)(d)** (subject to transitional provisions and savings in arts. 3(4)-(10), Schs. 1-3)

10 A school within the meaning of the <sup>M8</sup>Education Act 1996.

#### Marginal Citations

**M8** 1996 c.56.

[<sup>F67</sup>10A A 16 to 19 Academy.]

#### Textual Amendments

- F67** Sch. 4A para. 10A inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 13 para. 7**; S.I. 2012/924, art. 2

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- 11 (1) Premises used by an institution within the further education sector or an institution within the higher education sector for, or in connection with, the provision of education.
- (2) In this paragraph the references to an institution within the further education sector or within the higher education sector are to be construed in accordance with section 91 of the <sup>M9</sup>Further and Higher Education Act 1992.

#### Marginal Citations

**M9** 1992 c.13.

- [<sup>F68</sup>12 (1) Premises in England which are used for the provision of childcare by a person who is registered (otherwise than as a childminder) under Part 3 of the Childcare Act 2006  
<sup>F69</sup> ...
- (2) Premises in Wales which are used for the provision of day care for children by a person who is registered under [<sup>F70</sup>Part 2 of the Children and Families (Wales) Measure 2010] in respect of the premises.]

#### Textual Amendments

- F68** Sch. 4A para. 12 substituted (6.4.2007) by [Childcare Act 2006 \(c. 21\)](#), ss. 103(1), 109, **Sch. 2 para. 19**; [S.I. 2007/1019](#), **art. 4** (with savings in [Sch. para. 4](#))
- F69** Words in [Sch. 4A para. 12\(1\)](#) omitted (1.1.2016) by virtue of [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), s. 164(1), **Sch. 2 para. 20**; [S.I. 2015/1329](#), reg. 6(b)
- F70** Words in [Sch. 4A para. 12\(2\)](#) substituted (1.4.2011) by [Children and Families \(Wales\) Measure 2010 \(nawm 1\)](#), s. 75(3), **Sch. 1 para. 9**; [S.I. 2010/2582](#), **art. 2**, [Sch. 1](#) (with [Sch. 2](#), [Sch. 3](#))

- 13 (1) A prison or [<sup>F71</sup>removal centre] .
- (2) In this paragraph “prison” means—
- (a) any prison, young offender institution or remand centre which is under the general superintendence of, or is provided by, the Secretary of State under the <sup>M10</sup>Prison Act 1952, including a contracted out prison within the meaning of Part IV of the <sup>M11</sup>Criminal Justice Act 1991,
- (b) any secure training centre <sup>F72</sup> ...
- [ a secure college, or]
- <sup>F73</sup>(ba)
- (c) a naval, military or air force prison.
- (3) In this paragraph “[<sup>F71</sup>removal centre]” means any premises which are used solely for detaining persons under the <sup>M12</sup>Immigration Act 1971 or the [<sup>F74</sup>Nationality, Immigration and Asylum Act 2002] , but which are not a part of a prison.

#### Textual Amendments

- F71** Words in [Sch. 4A para. 13](#) substituted (10.2.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), ss. **66(2)(3)(p)**, 162(2); [S.I. 2003/1](#), **art. 2**, [Sch.](#)
- F72** Words in [Sch. 4A para. 13\(2\)\(b\)](#) omitted (20.3.2015) by virtue of [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), **Sch. 9 para. 10(a)**; [S.I. 2015/778](#), **art. 2(1)(c)**

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**F73** Sch. 4A para. 13(2)(ba) inserted (20.3.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 9 para. 10(b)**; S.I. 2015/778, art. 2(1)(c)

**F74** Words in Sch. 4A para. 13(3) substituted (4.4.2003) by The Nationality, Immigration and Asylum Act 2002 (Consequential and Incidental Provisions) Order 2003 (S.I. 2003/1016), art. 3, **Sch. para. 5**

#### Marginal Citations

**M10** 1952 c.52.

**M11** 1991 c.53.

**M12** 1971 c.77.

14 Premises occupied for the purposes of a police force.

15 Premises occupied for the purposes of a [<sup>F75</sup>fire and rescue authority] .

#### Textual Amendments

**F75** Words in Sch. 4A para. 15 substituted (1.10.2004 for E. and 10.11.2004 for W.) by Fire and Rescue Services Act 2004 (c. 21), ss. 53, 61, {Sch. 1 para. 78}; S.I. 2004/2304, **art. 2(2)** (subject to savings in art. 3); S.I. 2004/2917, **art. 2**

16 Premises occupied for the purposes of the provision of an ambulance service by a National Health Service trust established under [<sup>F76</sup>the National Health Service Act 2006 or the National Health Service (Wales) Act 2006][<sup>F77</sup>or by an NHS foundation trust] .]

#### Textual Amendments

**F76** Words in Sch. 4A para. 16 substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 139(b)**

**F77** Words in Sch. 4A para. 16 inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 34, 119, **Sch. 4 para. 90**; S.I. 2004/759, **art. 2**

## SCHEDULE 5

Section 65.

### PROCEDURE FOR ORDERS RELATING TO PRESSURE AND CONSTANCY OF SUPPLY

#### *Applications for orders*

- 1 (1) Where the Director or a water undertaker applies to the Secretary of State for an order under section 65(5) of this Act, the applicant shall—
- (a) submit to the Secretary of State a draft of the order applied for;
  - (b) publish a notice with respect to the application, at least once in each of two successive weeks, in one or more newspapers circulating in the locality which would be affected by the provision proposed to be made by the order;
  - (c) not later than the date on which that notice is first published serve a copy of the notice on every affected local authority and every affected water undertaker; and
  - (d) publish a notice in the London Gazette which-

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- (i) states that the draft order has been submitted to the Secretary of State;
  - (ii) names every local authority on whom a notice is required to be served under this paragraph;
  - (iii) specifies a place where a copy of the draft order and of any relevant map or plan may be inspected; and
  - (iv) gives the name of every newspaper in which the notice required by virtue of paragraph (b) above was published and the date of an issue containing the notice.
- (2) The notice required by virtue of sub-paragraph (1)(b) above to be published with respect to an application for an order shall—
- (a) state the general effect of the order applied for;
  - (b) specify a place where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable times during the period of twenty-eight days beginning with the date of the first publication of the notice; and
  - (c) state that any person may, within that period, by notice to the Secretary of State object to the making of the order.
- (3) For the purposes of subsection (1)(c) above a local authority or a water undertaker which is not the applicant shall be affected by an application for an order if its area includes the whole or any part of the locality which would be affected by the provision proposed to be made by the order.

*Supply of copies of draft orders*

- 2 The applicant for an order under section 65(5) of this Act shall, at the request of any person and on payment by that person of such charge (if any) as the applicant may reasonably require, furnish that person with a copy of the draft order submitted to the Secretary of State under paragraph 1 above.

*Modifications of proposals*

- 3 (1) On an application for an order under section 65(5) of this Act, the Secretary of State may make the order either in the terms of the draft order submitted to him or, subject to sub-paragraph (2) below, in those terms as modified in such manner as he thinks fit, or may refuse to make an order.
- (2) The Secretary of State shall not make such a modification of a draft order submitted to him as he considers is likely adversely to affect any persons unless he is satisfied that the applicant for the order has given and published such additional notices, in such manner, as the Secretary of State may have required.

*Consideration of objections etc.*

- 4 Where an application for an order to which this Schedule applies has been made, the Secretary of State may, if he considers it appropriate to do so, hold a local inquiry before making any order on the application.

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## SCHEDULE 6

Sections 71 to 84 &amp; 162 to 172.

## SUPPLEMENTAL PROVISIONS RELATING TO RIGHTS OF ENTRY

## PART I

## RIGHTS REQUIRING NOTICE FOR ENTRY TO NON-BUSINESS PREMISES

*Notice of entry*

- 1 (1) Where this Part of this Schedule applies to any right of entry conferred by a provision of this Act, admission to any premises which are not business premises shall not be demanded as of right by virtue of that provision, unless twenty-four hours notice of the intended entry has been given to the occupier of the premises.
- (2) In this paragraph “business premises” means—
- (a) any factory; or
  - (b) any place in which persons are employed otherwise than in domestic service;
- and in this sub-paragraph “factory” has the same meaning as in the <sup>M13</sup>Factories Act 1961.

**Marginal Citations**

**M13** 1961 c. 34.

*Warrants to exercise right*

- 2 (1) Subject to sub-paragraph (3) below, if it is shown to the satisfaction of a justice of the peace, on sworn information in writing—
- (a) that any one or more of the conditions specified in sub-paragraph (2) below is fulfilled in relation to any premises which a person is entitled to enter by virtue of a right of entry to which this Part of this Schedule applies; and
  - (b) that there is reasonable ground for entry to the premises for any purpose for which the right is exercisable,
- the justice may by a warrant under his hand authorise that person to enter the premises, if need be by force.
- (2) The conditions mentioned in sub-paragraph (1) above are—
- (a) that admission to the premises has been refused to the person having the right to enter them;
  - (b) that such refusal is apprehended;
  - (c) that the premises are unoccupied or the occupier is temporarily absent;
  - (d) that the case is one of urgency;
  - (e) that an application for admission would defeat the object of the entry.
- (3) A warrant under this Part of this Schedule shall not be issued by a justice of the peace in a case in which he is satisfied that the condition mentioned in paragraph (a) or (b) of sub-paragraph (2) above is fulfilled unless he is also satisfied—
- (a) that notice of the intention to apply for a warrant has been given to the occupier;

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- (b) that a condition mentioned in either of paragraphs (c) and (d) of that sub-paragraph is also fulfilled in relation to the premises; or
  - (c) that the giving of such notice as is mentioned in paragraph (a) above would defeat the object of the entry.
- (4) Every warrant under this Part of this Schedule shall continue in force until the purpose for which the entry is necessary has been fulfilled.
- (5) A person leaving any unoccupied premises which he has entered by virtue of a warrant under this Part of this Schedule shall leave them as effectually secured against trespassers as he found them.

*Supplementary power of person making entry*

- 3 Any person entitled to enter any premises by virtue of a right to which this Part of this Schedule applies, or of a warrant under this Part of this Schedule, may take with him such other persons as may be necessary.

*Obstruction of person exercising right*

- 4 Any person who wilfully obstructs any person upon whom a right of entry has been conferred by virtue of—
- (a) any provision of this Act relating to a right of entry to which this Part of this Schedule applies; or
  - (b) a warrant under this Part of this Schedule,
- shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 1 on the standard scale.

*Duty of persons exercising rights to maintain confidentiality*

- 5 (1) Without prejudice to section 206 of this Act and subject to sub-paragraphs (2) and (3) below, any person who is admitted to any premises in compliance—
- (a) with any provision of this Act relating to a right of entry to which this Part of this Schedule applies; or
  - (b) with a warrant under this Part of this Schedule,
- shall be guilty of an offence under this paragraph if he discloses to any person any information obtained by him there with regard to any manufacturing process or trade secret.
- (2) A person shall not be guilty of an offence under this paragraph in respect of any disclosure made in the performance of his duty.
- (3) For the purposes of the application of this Part of this Schedule to the right conferred by section 171 of this Act, the reference to premises in subsection (1) above shall have effect as a reference only to business premises, within the meaning of paragraph 1 above.
- (4) A person who is guilty of an offence under this paragraph, other than such a person as is mentioned in sub-paragraph (5) below, shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding three months or to a fine or to both.



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- (5) A person who is guilty of an offence under this paragraph by virtue of the application of this Part of this Schedule to the rights conferred by section 171 of this Act shall be liable, on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding level 3 on the standard scale or to both.

## PART II

### OTHER RIGHTS OF ENTRY AND RELATED POWERS

#### *Notice of entry*

- 6 (1) Without prejudice to any power exercisable by virtue of a warrant under this Part of this Schedule, no person shall make an entry into any premises by virtue of any right or power to which this Part of this Schedule applies except—
- (a) in an emergency; or
  - (b) at a reasonable time and after the required notice of the intended entry has been given to the occupier of the premises.
- (2) For the purposes of this paragraph the required notice is—
- (a) in the case of the rights and powers conferred by virtue of any of sections 74(4), 84(2) and (3), 86(4) and 170(1)(c) and (3) of this Act, twenty-four hours' notice; and
  - (b) in any other case, seven days' notice.
- (3) For the purposes of the application of this Part of this Schedule to any right or power conferred by section 168 of this Act the reference in sub-paragraph (1) above to an emergency—
- (a) in relation to any entry to premises for the purposes of, or for purposes connected with, the exercise or proposed exercise of any power in relation to a street, includes a reference to any circumstances requiring the carrying out of emergency works within the meaning of Part III of the <sup>M14</sup>New Roads and Street Works Act 1991; and
  - (b) in relation to any other entry to premises, includes a reference to any danger to property and to any interruption of a supply of water provided to any premises by any person and to any interruption of the provision of sewerage services to any premises.
- (4) Until the coming into force of section 52 of the New Roads and Street Works Act 1991, sub-paragraph (3)(a) above shall have effect as if the reference to Part III of that Act were a reference to the <sup>M15</sup>Public Utilities Street Works Act 1950; but nothing in this sub-paragraph shall be taken to prejudice the power of the Secretary of State under that Act of 1991 to make an order bringing that section 52 into force on different days for different purposes (including the purposes of this paragraph).
- (5) For the purposes of the application of this Part of this Schedule to the rights and other powers conferred by section 172 of this Act sub-paragraph (1) above shall have effect as if the power in an emergency to make an entry to any premises otherwise than at a reasonable time and after the required notice were omitted.

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### Marginal Citations

**M14** 1991 c. 22.

**M15** 1950 c. 39.

### *Warrant to exercise right or power*

- 7 (1) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—
- (a) that there are reasonable grounds for the exercise in relation to any premises of a right or power to which this Part of this Schedule applies; and
  - (b) that one or more of the conditions specified in sub-paragraph (2) below is fulfilled in relation to those premises,
- the justice may by warrant authorise the relevant authority to designate a person who shall be authorised to exercise the right or power in relation to those premises in accordance with the warrant and, if need be, by force.
- (2) The conditions mentioned in sub-paragraph (1)(b) above are—
- (a) that the exercise of the right or power in relation to the premises has been refused;
  - (b) that such a refusal is reasonably apprehended;
  - (c) that the premises are unoccupied;
  - (d) that the occupier is temporarily absent from the premises;
  - (e) that the case is one of urgency; or
  - (f) that an application for admission to the premises would defeat the object of the proposed entry.
- (3) A justice of the peace shall not issue a warrant under this Part of this Schedule by virtue only of being satisfied that the exercise of a right or power in relation to any premises has been refused, or that a refusal is reasonably apprehended, unless he is also satisfied—
- (a) that notice of the intention to apply for the warrant has been given to the occupier of the premises; or
  - (b) that the giving of such a notice would defeat the object of the proposed entry.
- (4) For the purposes of the application of this Part of this Schedule to the rights and powers conferred by section 169 of this Act in a case to which subsection (4) of that section applies, a justice of the peace shall not issue a warrant under this Part of this Schedule unless he is satisfied that the Secretary of State has given his authorisation for the purposes of that subsection in relation to that case.
- (5) Every warrant under this Part of this Schedule shall continue in force until the purposes for which the warrant was issued have been fulfilled.

### Modifications etc. (not altering text)

**C12** Sch. 6 paras. 7-10 applied (23.12.2003) by The United Utilities Water plc (Ullswater) (Drought) Order 2003 (S.I. 2003/3341), {art. 2}

**C13** Sch. 6 Pt. II para. 7 applied (*temp.* from 3.10.1995 to 29.2.1996) by S.I. 1995/2585, art. 2(1)(5)

Sch. 6 Pt. II para. 7 applied (6.12.1995) by S.I. 1995/3179, art. 2(5)

Sch. 6 Pt. II para. 7 applied (17.2.1996) by S.I. 1996/367, art. 2(4)

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Sch. 6 Pt. II para. 7 applied (*temp.* from 4.4.1996 to 3.10.1996) by S.I. 1996/1079, **art. 2(5)**

*Manner of exercise of right or power*

- 8 A person designated as the person who may exercise any right or power to which this Part of this Schedule applies shall produce evidence of his designation and other authority before he exercises the right or power.

**Modifications etc. (not altering text)**

- C14** Sch. 6 paras. 7-10 applied (23.12.2003) by The United Utilities Water plc (Ullswater) (Drought) Order 2003 (S.I. 2003/3341), {art. 2}
- C15** Sch. 6 Pt. II para. 8 applied (*temp.* from 3.10.1995 to 29.2.1996) by S.I. 1995/2585, **art. 2(1)(5)**  
 Sch. 6 Pt. II para. 8 applied (6.12.1995) by S.I. 1995/3179, **art. 2(5)**  
 Sch. 6 Pt. II para. 8 applied (17.2.1996) by S.I. 1996/367, **art. 2(4)**  
 Sch. 6 Pt. II para. 8 applied (*temp.* from 4.4.1996 to 3.10.1996) by S.I. 1996/1079, **art. 2(5)**

*Supplementary powers of person making entry etc.*

- 9 A person authorised to enter any premises by virtue of any right or power to which this Part of this Schedule applies shall be entitled, subject in the case of a right or power exercisable under a warrant to the terms of the warrant, to take with him on to the premises such other persons and such equipment as may be necessary.

**Modifications etc. (not altering text)**

- C16** Sch. 6 paras. 7-10 applied (23.12.2003) by The United Utilities Water plc (Ullswater) (Drought) Order 2003 (S.I. 2003/3341), {art. 2}
- C17** Sch. 6 Pt. II para. 9 applied (*temp.* from 3.10.1995 to 29.2.1996) by S.I. 1995/2585, **art. 2(1)(5)**  
 Sch. 6 Pt. II para. 9 applied (6.12.1995) by S.I. 1995/3179, **art. 2(5)**  
 Sch. 6 Pt. II para. 9 applied (17.2.1996) by S.I. 1996/367, **art. 2(4)**  
 Sch. 6 Pt. II para. 9 applied (*temp.* from 4.4.1996 to 3.10.1996) by S.I. 1996/1079, **art. 2(5)**

*Duty to secure premises*

- 10 A person who enters any premises in the exercise of any right or power to which this Part of this Schedule applies shall leave the premises as effectually secured against trespassers as he found them.

**Modifications etc. (not altering text)**

- C18** Sch. 6 paras. 7-10 applied (23.12.2003) by The United Utilities Water plc (Ullswater) (Drought) Order 2003 (S.I. 2003/3341), {art. 2}
- C19** Sch. 6 Pt. II para. 10 applied (*temp.* from 3.10.1995 to 29.2.1996) by S.I. 1995/2585, **art. 2(1)(5)**  
 Sch. 6 Pt. II para. 10 applied (6.12.1995) by S.I. 1995/3179, **art. 2(5)**  
 Sch. 6 Pt. II para. 10 applied (17.2.1996) by S.I. 1996/367, **art. 2(4)**  
 Sch. 6 Pt. II para. 10 applied (*temp.* from 4.4.1996 to 3.10.1996) by S.I. 1996/1079, **art. 2(5)**

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### *Compensation*

- 11 (1) Where any person exercises any right or power to which this Part of this Schedule applies, it shall be the duty of the relevant authority to make full compensation to any person who has sustained loss or damage by reason of—
- (a) the exercise by the designated person of that right or power or of any power to take any person or equipment with him when entering the premises in relation to which the right or power is exercised; or
  - (b) the performance of, or failure of the designated person to perform, the duty imposed by paragraph 10 above.
- (2) Compensation shall not be payable by virtue of sub-paragraph (1) above in respect of any loss or damage if the loss or damage—
- (a) is attributable to the default of the person who sustained it; or
  - (b) is loss or damage in respect of which compensation is payable by virtue of any other provision of this Act.
- (3) Any dispute as to a person’s entitlement to compensation under this paragraph or as to the amount of any such compensation, shall be referred to the arbitration of a single arbitrator appointed by agreement between the relevant authority and the person who claims to have sustained the loss or damage or, in default of agreement—
- (a) by the [<sup>F78</sup>Upper Tribunal] where the relevant authority is the Secretary of State; and
  - (b) by the Secretary of State, in any other case.

#### **Textual Amendments**

**F78** Words in [Sch. 6 para. 11\(3\)\(a\)](#) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order (S.I. 2009/1307), art. 5(1)(2), {Sch. 1 para. 221} (with Sch. 5)

### *Obstruction of person exercising right or power*

- 12 A person who intentionally obstructs another person acting in the exercise of any right or power to which this Part of this Schedule applies shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

#### **Modifications etc. (not altering text)**

**C20** [Sch. 6 para. 12](#) applied (23.12.2003) by The United Utilities Water plc (Ullswater) (Drought) Order 2003 (S.I. 2003/3341), {art. 2}

**C21** [Sch. 6 Pt. II para. 12](#) applied (*temp.* from 3.10.1995 to 29.2.1996) by S.I. 1995/2585, [art. 2\(1\)\(5\)](#)  
[Sch. 6 Pt. II para. 12](#) applied (6.12.1995) by S.I. 1995/3179, [art. 2\(5\)](#)  
[Sch. 6 Pt. II para. 12](#) applied (17.2.1996) by S.I. 1996/367, [art. 2\(4\)](#)  
[Sch. 6 Pt. II para. 12](#) applied (*temp.* from 4.4.1996 to 3.10.1996) by S.I. 1996/1079, [art. 2\(5\)](#)

### *Interpretation of Part II*

- 13 (1) In this Part of this Schedule “relevant authority”, in relation to a right or power to which this Part of this Schedule applies, means the person who, by virtue of—

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- (a) the provision by which the right or power is conferred; or
  - (b) (except in paragraph 7 above) the warrant,
- is entitled to designate the person by whom the right or power may be exercised.
- (2) References in this Part of this Schedule, except in paragraph 7 above, to a right or power to which this Part of this Schedule applies include references to a right or power exercisable by virtue of a warrant under this Part of this Schedule.
- (3) For the purposes of paragraphs 10 and 11 above a person enters any premises by virtue of a right or power to which this Part of this Schedule applies notwithstanding that he has failed (whether by virtue of the waiver of the requirement by the occupier of the premises or otherwise) to comply with-
- (a) any requirement to enter those premises at a reasonable time or after giving notice of his intended entry; or
  - (b) the requirement imposed by paragraph 8 above.

**Modifications etc. (not altering text)**

- C22** Sch. 6 para. 13 applied (23.12.2003) by The United Utilities Water plc (Ullswater) (Drought) Order 2003 (S.I. 2003/3341), {art. 2}
- C23** Sch. 6 Pt. II para. 13 applied (*temp.* from 3.10.1995 to 29.2.1996) by S.I. 1995/2585, **art. 2(1)(5)**  
Sch. 6 Pt. II para. 13 applied (6.12.1995) by S.I. 1995/3179, **art. 2(5)**  
Sch. 6 Pt. II para. 13 applied (17.2.1996) by S.I. 1996/367, **art. 2(4)**  
Sch. 6 Pt. II para. 13 applied (*temp.* from 4.4.1996 to 3.10.1996) by S.I. 1996/1079, **art. 2(5)**

F79 SCHEDULE 7

Section 91.

PRE-1985 FLUORIDATION SCHEMES

**Textual Amendments**

- F79** Sch. 7 repealed (26.3.2010 for E.) by Water Act 2003 (c. 37), ss. 58(9), 105(3), **Sch. 9 Pt. 3**; S.I. 2010/975, art. 2

*Operation of pre-1985 schemes*

- 1 (1) Where in pursuance of any such arrangements entered into by a water authority or statutory water company before 20th December 1984 as have effect immediately before the coming into force of this Act as arrangements entered into by a water undertaker—
- (a) a scheme for increasing the fluoride content of water supplied by the authority or company in any part of England and Wales was in operation immediately before that date; or
  - (b) work had been begun by the authority or company before that date for enabling such a scheme to be brought into operation,
- that water undertaker may, while the conditions mentioned in sub-paragraph (2) below are satisfied, operate the scheme.

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- (2) The conditions referred to in sub-paragraph (1) above are that the arrangements require—
- (a) fluoridation to be effected only by the addition of one or more of the compounds of fluorine mentioned in subsection (4) of section 87 of this Act; and
  - (b) the concentrations of fluoride in the water supplied to consumers to be maintained, so far as reasonably practicable, at one milligram per litre.

*Supplies by other undertakers and revocation or variation of scheme*

- 2 (1) Where a water undertaker is operating a fluoridation scheme by virtue of this Schedule—
- (a) subsections (6) and (7) of section 87 of this Act shall apply in relation to the scheme as they apply in relation to any scheme operated in exercise of the power conferred by that section or section 1 of the <sup>M16</sup>Water (Fluoridation) Act 1985;
  - (b) the scheme shall cease to have effect upon the appropriate authority giving to the undertaker reasonable notice of the authority's desire to terminate it; and
  - (c) the arrangements under which the scheme is operated may be varied to take account of any amendment of section 87(2) of this Act which is made under section 88 of this Act.
- (2) In this paragraph “appropriate authority”, in relation to a fluoridation scheme which is operated under this Schedule, means the [<sup>F80</sup>Strategic Health Authority or][<sup>F81</sup>Health Authority] to which the water undertaker concerned is answerable in accordance with the arrangements under which the scheme is operated.

**Textual Amendments**

**F80** Words in Sch. 7 inserted (1.10.2002) by [The National Health Service Reform and Health Care Professions Act 2002 \(Supplementary, Consequential etc. Provisions\) Regulations 2002 \(S.I. 2002/2469\)](#), reg. 4, [Sch. 1 Pt. I para. 18\(4\)](#)

**F81** Words in Sch. 7 para. 2(2) substituted (1.4.1996) by [1995 c. 17 s. 2\(1\)\(3\)](#), Sch. 1 Pt. III para. 120(4)(a)

**Marginal Citations**

**M16** [1985 c. 63](#).

*Publicity and consultation*

- 3 (1) Section 89 of this Act (including the power of the Secretary of State under subsection (6) of that section to dispense with the other requirements of that section) shall apply where a [<sup>F82</sup>Strategic Health Authority or][<sup>F83</sup>Health Authority] propose to terminate a scheme which may be operated by virtue of this Schedule as it applies where [<sup>F84</sup>Strategic Health Authority or][<sup>F85</sup>a Health Authority] propose to withdraw an application under section 87 of this Act.
- (2) Accordingly, in subsection (7) of section 89 of this Act, the reference to the question whether an application under section 87 of this Act should be withdrawn shall be treated by virtue of sub-paragraph (1) above as a reference to whether a scheme should be terminated under this Schedule.

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### Textual Amendments

- F82** Words in Sch. 7 inserted (1.10.2002) by [The National Health Service Reform and Health Care Professions Act 2002 \(Supplementary, Consequential etc. Provisions\) Regulations 2002 \(S.I. 2002/2469\)](#), reg. 4, [Sch. 1 Pt. I para. 18\(4\)](#)
- F83** Words in Sch. 7 para. 3(1) substituted (1.4.1996) by [1995 c. 17, s. 2\(1\)\(3\)](#), [Sch. 1 Pt. III para. 120\(4\)\(b\)\(i\)](#)
- F84** Words in Sch. 7 inserted (1.10.2002) by [The National Health Service Reform and Health Care Professions Act 2002 \(Supplementary, Consequential etc. Provisions\) Regulations 2002 \(S.I. 2002/2469\)](#), reg. 4, [Sch. 1 Pt. I para. 18\(4\)](#)
- F85** Words in Sch. 7 para. 3(1) substituted (1.4.1996) by [1995 c. 17, s. 2\(1\)\(3\)](#), [Sch. 1 Pt. III para. 120\(4\)\(b\)\(ii\)](#)

## SCHEDULE 8

Section 140.

### PRE-1989 ACT TRANSITIONAL AUTHORITY FOR TRADE EFFLUENT DISCHARGES ETC.

#### *Trade effluent agreements*

- 1 Nothing in Chapter III of Part IV of this Act (except so far as it relates to special category effluent) or in the repeals made by the <sup>M17</sup>Water Consolidation (Consequential Provisions) Act 1991 shall affect—
- (a) any agreement with respect to any trade effluent to which a sewerage undertaker is a party by virtue of its having been duly made before 1st July 1937 between a predecessor of the undertaker and the owner or occupier of any trade premises; or
  - (b) any agreement saved by section 63(8) of the <sup>M18</sup>Public Health Act 1961 (pre-1961 Act agreements with respect to discharges from premises used for farming or for scientific research or experiment).

### Marginal Citations

- M17** 1991 c. 60.  
**M18** 1961 c. 64.

#### *Authorisations having effect as deemed consents under the Control of Pollution Act 1974*

- 2 (1) Where, by virtue of section 43(2) of the <sup>M19</sup>Control of Pollution Act 1974 there is, immediately before the commencement of this Act, a deemed consent for the purposes of the <sup>M20</sup>Public Health (Drainage of Trade Premises) Act 1937 which has effect under the <sup>M21</sup>Water Act 1989 in relation to any sewerage undertaker, that deemed consent shall have effect as a deemed consent for the purposes of Chapter III of Part IV of this Act subject to the following provisions of this paragraph.
- (2) The sewerage undertaker—
- (a) may at any time; and

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- (b) shall if requested to do so by any person entitled to make a discharge in pursuance of the deemed consent,  
 by notice served on the owner and any occupier of the premises in question cancel the deemed consent and, subject to sub-paragraph (3) below, give its actual consent for such discharges as were authorised by the deemed consent.
- (3) An actual consent given under sub-paragraph (2) above shall be so given either conditionally or subject to any conditions which may be attached to consents by virtue of section 121 of this Act.
- (4) It is hereby declared that the provisions of Chapter III of Part IV of this Act with respect to the variation of conditions of a consent apply in relation to an actual consent under sub-paragraph (2) above as they apply in relation to any other actual consent under Chapter III of Part IV of this Act.
- (5) A notice signifying an actual consent under sub-paragraph (2) above shall indicate that a right of appeal is conferred under the following paragraph in respect of the notice.

**Modifications etc. (not altering text)**

- C24** Sch. 8 para. 2 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. 1 para. 8** (with ss. 42, 46).
- C25** Sch. 8 paras. 2-4 modified by S.I. 2010/675, Sch. 23 Pt. 8 para. 3 Table 9 (as substituted (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), reg. 1(b), **Sch. 1**)
- C26** Sch. 8 paras. 2-4 modified (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), reg. 1(1), Sch. 23 paras. 1(3), 2 Table 9 (with regs. 1(3), 77-79, Sch. 4)

**Marginal Citations**

- M19** 1974 c. 40.  
**M20** 1937 c. 40.  
**M21** 1989 c. 15.

*Appeals in respect of consents under paragraph 2*

- 3 (1) A person on whom notice is served in pursuance of paragraph 2(2) above may, in accordance with regulations made by the Secretary of State, appeal to the Director.
- (2) Section 137 of this Act shall apply, with the necessary modifications, in relation to appeals under this paragraph as it applies in relation to appeals under section 122 of this Act.
- (3) On an appeal under this paragraph the Director may give the sewerage undertaker in question any such direction as he thinks fit with respect to the notice and it shall be the duty of the undertaker to comply with the direction.

**Modifications etc. (not altering text)**

- C25** Sch. 8 paras. 2-4 modified by S.I. 2010/675, Sch. 23 Pt. 8 para. 3 Table 9 (as substituted (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), reg. 1(b), **Sch. 1**)
- C26** Sch. 8 paras. 2-4 modified (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), reg. 1(1), Sch. 23 paras. 1(3), 2 Table 9 (with regs. 1(3), 77-79, Sch. 4)



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**C27** Sch. 8 para. 3 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. 1 para. 8** (with ss. 42, 46).

*Determinations of disputes as to transitional matters*

- 4 (1) Any dispute in so far as it—
- (a) arises after the commencement of this Act and relates to a deemed consent in respect of discharges previously authorised under section 4 of the <sup>M22</sup>Public Health (Drainage of Trade Premises) Act 1937; and
  - (b) is a dispute as to the nature or composition of any trade effluent discharged from any trade premises into a sewer during any period, as to the quantity of trade effluent so discharged on any one day during any period or as to the rate of trade effluent so discharged during any period,
- shall, unless the parties otherwise agree, be referred to the Director for determination.
- (2) On a reference under this paragraph the Director may make such order in the matter as he thinks just.
- (3) An order on a reference under this paragraph shall be final; but section 137 of this Act shall apply, with the necessary modifications, in relation to references under this paragraph as it applies in relation to appeals under section 122 of this Act.

**Modifications etc. (not altering text)**

- C25** Sch. 8 paras. 2-4 modified by S.I. 2010/675, Sch. 23 Pt. 8 para. 3 Table 9 (as substituted (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), reg. 1(b), **Sch. 1**)
- C26** Sch. 8 paras. 2-4 modified (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), reg. 1(1), Sch. 23 paras. 1(3), 2 Table 9 (with regs. 1(3), 77-79, Sch. 4)
- C28** Sch. 8 para. 4 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. 1 para. 8** (with ss. 42, 46).

**Marginal Citations**

**M22** 1937 c. 40.

*Regulations as to residue of agreements*

- 5 The Secretary of State may by regulations make provisions in relation to the provisions of any agreement to which subsection (1) of section 43 of the <sup>M23</sup>Control of Pollution Act 1974 applied and which apart from that section would be in force after the commencement of this Act—
- (a) for determining, by arbitration or otherwise, whether any such agreement continues to have effect as relating to a matter other than the discharge of trade effluent into a sewerage undertaker's sewer;
  - (b) for determining, by arbitration or otherwise, what modifications (if any) are appropriate in consequence of any prescribed provision of section 43 of that Act or any provision of this Schedule re-enacting any such provision; and
  - (c) in a case in which the conditions on which any discharges authorised by such an agreement included, immediately before the coming into force of section 43 of that Act, a condition as to charges in respect of the discharges and other matters—

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- (i) for determining, by arbitration or otherwise, the proportion of the charges attributable to the discharges; and
- (ii) for limiting accordingly the conditions which are to be treated by virtue of section 43 of that Act as included in the deemed consent which has effect by virtue of this Schedule.

**Marginal Citations**

**M23** 1974 c. 40.

SCHEDULE 9

Section 155.

MODIFICATION OF COMPENSATION PROVISIONS ETC.  
 IN RELATION TO THE CREATION OF NEW RIGHTS

*Compensation enactments*

- 1 Subject to the following provisions of this Schedule, the enactments for the time being in force with respect to compensation for the compulsory purchase of land shall apply with the necessary modifications as respects compensation in the case of a compulsory acquisition under section 155 of this Act of a right by the creation of a new right as they apply as respects compensation on the compulsory purchase of land and interests in land.

*Adaptation of the Compulsory Purchase Act 1965*

- 2 The Compulsory Purchase Act 1965 (in the following provisions of this Schedule referred to as “the 1965 Act”) shall have effect with the modifications necessary to make it apply to the compulsory acquisition under section 155 of this Act of a right by the creation of a new right as it applies to the compulsory acquisition under that section of land, so that, in appropriate contexts, references in that Act to land are to be read (according to the requirements of the particular context) as referring to, or as including references to—
- (a) the right acquired or to be acquired; or
  - (b) the land over which the right is or is to be exercisable.
- (2) Without prejudice to the generality of sub-paragraph (1) above, Part I of the 1965 Act shall apply in relation to the compulsory acquisition under section 155 of this Act of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

*Section 7 of the 1965 Act*

- 3 For section 7 of the 1965 Act (measure of compensation) there shall be substituted the following section—
- “7 In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right but also to the damage (if any) to be sustained by the owner

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of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

*Section 8 of the 1965 Act*

[<sup>F864</sup> Section 8(1) of the Compulsory Purchase Act 1965 has effect as if references to acquiring land were to acquiring a right in the land, and Schedule 2A to that Act is to be read as if, for that Schedule, there were substituted—

“SCHEDULE  
2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

*Introduction*

- 1 (1) This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over the whole or part of a house, building or factory.
- (2) But see section 2A of the Acquisition of Land Act 1981 (under which a compulsory purchase order can exclude from this Schedule land that is 9 metres or more below the surface).
- 2 In this Schedule “house” includes any park or garden belonging to a house.

*Counter-notice requiring purchase of land*

- 3 A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner’s interest in the house, building or factory.
- 4 A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

*Response to counter-notice*

- 5 On receiving a counter-notice the acquiring authority must decide whether to—
  - (a) withdraw the notice to treat,
  - (b) accept the counter-notice, or
  - (c) refer the counter-notice to the Upper Tribunal.
- 6 The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).
- 7 If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.
- 8 If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

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- 9 If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the house, building or factory.

*Determination by Upper Tribunal*

- 10 On a referral under paragraph 7 the Upper Tribunal must determine whether the acquisition of the right would—
- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
  - (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.
- 11 In making its determination, the Upper Tribunal must take into account—
- (a) the effect of the acquisition of the right,
  - (b) the proposed use of the right, and
  - (c) if the right is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.
- 12 If the Upper Tribunal determines that the acquisition of the right would have either of the consequences described in paragraph 10 it must determine how much of the house, building or factory the authority ought to be required to take.
- 13 If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.
- 14 (1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.
- (2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.
- (3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”]

**Textual Amendments**

**F86** Sch. 9 para. 4 substituted (3.2.2017) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), Sch. 17 paras. 6, 7; S.I. 2017/75, reg. 3(g) (with reg. 5)

*Effect of deed poll*

- 5 The following provisions of the 1965 Act (being provisions stating the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

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- (a) section 9(4) (refusal by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.

*Section 11 of the 1965 Act*

- 6 Section 11 of the 1965 Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on warrant in the event of obstruction) shall be modified correspondingly.

*Section 20 of the 1965 Act*

- 7 Section 20 of the 1965 Act (protection for interests of tenants at will etc.) shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under section 155 of this Act of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

*Section 22 of the 1965 Act*

- 8 Section 22 of the 1965 Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

SCHEDULE 10

Section 157.

PROCEDURE RELATING TO BYELAWS UNDER SECTION 157

*Confirmation of byelaws*

- 1 (1) No byelaw made by a relevant undertaker under section 157 of this Act shall have effect until confirmed by the Secretary of State under this Schedule.
- (2) At least one month before it applies for the confirmation of any such byelaw, a relevant undertaker shall—
- (a) cause a notice of its intention to make the application to be published in the London Gazette and in such other manner as it considers appropriate for the

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- purpose of bringing the proposed byelaw to the attention of persons likely to be affected by it; and
- (b) cause copies of the notice to be served on any persons carrying out functions under any enactment who appear to it to be concerned.
- (3) For at least one month before an application is made by a relevant undertaker for the confirmation of any such byelaw, a copy of it shall be deposited at one or more of the offices of the relevant undertaker, including (if there is one) at an office in the area to which the byelaw would apply.
- (4) A relevant undertaker shall provide reasonable facilities for the inspection free of charge of a byelaw deposited under sub-paragraph (3) above.
- (5) Every person shall be entitled, on application to a relevant undertaker, to be furnished free of charge with a printed copy of a byelaw so deposited.

*Confirmation with or without modifications*

- 2 (1) The Secretary of State, with or without a local inquiry, may refuse to confirm any byelaw submitted to him by a relevant undertaker for confirmation under this Schedule, or may confirm the byelaw either without or, if the relevant undertaker consents, with modifications.
- (2) The relevant undertaker which has so submitted a byelaw shall, if so directed by the Secretary of State, cause notice of any proposed modifications to be given in accordance with his directions.

*Commencement of byelaw*

- 3 (1) The Secretary of State may fix the date on which any byelaw confirmed under this Schedule is to come into force.
- (2) If no date is so fixed, the byelaw shall come into force at the end of the period of one month beginning with the date of confirmation.

*Availability of confirmed byelaws*

- 4 (1) Every byelaw made by a relevant undertaker and confirmed under this Schedule shall be printed and deposited at one or more of the offices of the relevant undertaker, including (if there is one) at an office in the area to which the byelaw applies; and copies of the byelaw shall be available at those offices, at all reasonable times, for inspection by the public free of charge.
- (2) Every person shall be entitled, on application to a relevant undertaker and on payment of such reasonable sum as the relevant undertaker may determine, to be furnished with a copy of any byelaw so deposited by that undertaker.

*Revocation of byelaws*

- 5 Without prejudice to subsection (5) of section 157 of this Act and subject to paragraph 4(4) of Schedule 2 to the <sup>M24</sup>Water Consolidation (Consequential Provisions) Act 1991, if it appears to the Secretary of State that the revocation of a byelaw under that section is necessary or expedient, he may, after—
- (a) giving notice to the relevant undertaker which made the byelaw;

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- (b) considering any representations or objections made by that undertaker; and
- (c) if required by that undertaker, holding a local inquiry,  
revoke that byelaw.

**Modifications etc. (not altering text)**

**C29** Sch. 10 para. 5 amended (01.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 2(2), 4(2), **Sch. 2 Pt. I para. 4(4)**.

**Marginal Citations**

**M24** 1991 c. 60.

*Proof of byelaws etc.*

- 6 The production of a printed copy of a byelaw purporting to be made by a relevant undertaker upon which is indorsed a certificate, purporting to be signed on its behalf, stating—
- (a) that the byelaw was made by that undertaker;
  - (b) that the copy is a true copy of the byelaw;
  - (c) that on a specified date the byelaw was confirmed under this Schedule; and
  - (d) the date, if any, fixed under paragraph 3 above for the coming into operation of the byelaw,
- shall be prima facie evidence of the facts stated in the certificate, and without proof of the handwriting or official position of any person purporting to sign the certificate.

SCHEDULE 11

Section 167.

ORDERS CONFERRING COMPULSORY WORKS POWERS

**Modifications etc. (not altering text)**

**C30** Sch. 11 applied (with modifications) (2.5.2006 for E. and 11.5.2006 for W. in accordance with reg. 1) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006](#) (S.I. 2006/1177), reg. 2, **Sch. Pt. 1**

**C31** Sch. 11 applied (with modifications) (24.3.2005) by [The New Forest National Park Authority \(Establishment\) Order 2005](#) (S.I. 2005/421), art. 16, **Sch. 3 para. 5(1)**

**C32** Sch. 11 applied (with modifications) (4.6.1996) by [S.I. 1996/1243](#), art. 18, **Sch. 5 Pt. II para. 6(1)**  
Sch. 11: functions for certain purposes exercised concurrently with the Secretary of State (1.7.1999) by [S.I. 1999/672](#), art. 2, **Sch. 1**

**C33** Sch. 11 applied (24.3.2010) by [The South Downs National Park Authority \(Establishment\) Order 2010](#) (S.I. 2010/497), art. 1, **Sch. 3 para. 4(1)**

**C34** Sch. 11 applied (with modifications) (1.7.2015) by [The National Park Authorities \(England\) Order 2015](#) (S.I. 2015/770), art. 1, **Sch. 3 para. 5(1)**

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### *Applications for orders*

- 1 (1) Where a water undertaker applies to the Secretary of State for a compulsory works order, it shall—
- (a) submit to the Secretary of State a draft of the order applied for;
  - (b) publish a notice with respect to the application, at least once in each of two successive weeks, in one or more newspapers circulating in each relevant locality;
  - (c) not later than the date on which that notice is first published—
    - (i) serve a copy of the notice on each of the persons specified in relation to the application in sub-paragraph (3) below; and
    - (ii) in the case of a draft order which would authorise the stopping-up or diversion of a footpath or bridleway, cause such a copy, together with a plan showing the general effect of the draft order so far as it relates to the footpath or bridleway, to be displayed in a prominent position at the ends of the part of the path or way to be stopped up or diverted;
- and
- (d) publish a notice in the London Gazette which—
    - (i) states that the draft order has been submitted to the Secretary of State;
    - (ii) names every local authority on whom a notice is required to be served under this paragraph;
    - (iii) specifies a place where a copy of the draft order and of any relevant map or plan may be inspected; and
    - (iv) gives the name of every newspaper in which the notice required by virtue of paragraph (b) above was published and the date of an issue containing the notice.
- (2) The notice required by virtue of sub-paragraph (1)(b) above to be published with respect to an application for an order by a water undertaker shall—
- (a) state the general effect of the order applied for;
  - (b) in the case of an application made wholly or partly for the purpose of enabling any discharges of water to be made—
    - (i) contain particulars of the proposed discharges, stating the purposes of the discharges and specifying each place of discharge;
    - (ii) specify the places at which the water to be comprised in the proposed discharges is to be taken and the treatment (if any) which the draft order proposes to require the water, or any of it, to receive before being discharged under the order; and
    - (iii) state the effect which, in the opinion of the undertaker, the proposed discharges would have on the flow, level and quality of water in any inland waters or underground strata;
  - (c) specify a place where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable times during the period of twenty-eight days beginning with the date of the first publication of the notice; and
  - (d) state that any person may, within that period, by notice to the Secretary of State object to the making of the order.



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- (3) The persons mentioned in sub-paragraph (1)(c) above in relation to an application for a compulsory works order a draft of which has been submitted to the Secretary of State are—
- (a) [<sup>F87</sup>the Environment Agency][<sup>F88</sup>, if the whole or any part of a relevant locality is in England];
  - [<sup>F89</sup>(aa) the NRW, if the whole or any part of a relevant locality is in Wales;]
  - (b) every local authority whose area is or includes the whole or any part of a relevant locality;
  - (c) every water undertaker, not being the applicant, whose area is or includes the whole or any part of such a locality;
  - (d) every navigation authority, harbour authority and conservancy authority which would be affected by, or has functions in relation to any inland waters which would be affected by, any provision proposed to be made by the order;
  - [<sup>F90</sup>(e) every person—
    - (i) who is an owner, lessee, tenant (whatever the tenancy period) or occupier of any land in relation to which compulsory powers would become exercisable if the order were made in the terms of the draft order; or
    - (ii) who the water undertaker thinks is likely to be entitled to make a claim for compensation under section 10 of the Compulsory Purchase Act 1965 if the order is confirmed and the compulsory powers become exercisable, so far as he is known to the water undertaker after making diligent inquiry;]
  - (f) every person who has given notice to the water undertaker requiring it to notify him of applications for compulsory works orders and has paid such reasonable charge as the undertaker may have required him to pay for being notified by virtue of this paragraph;
  - (g) such other persons as may be prescribed.
- (4) In this paragraph “relevant locality”, in relation to an application for an order a draft of which is submitted to the Secretary of State by a water undertaker, means—
- (a) any locality which would be affected by any provision proposed to be made by the order for the purpose of enabling any engineering or building operations to be carried out; and
  - (b) where provision is proposed to be made by the order for the purpose of enabling discharges of water to be made, each locality in which the place of any of the proposed discharges is situated or in which there appears to that undertaker to be any inland waters or underground strata the flow, level or quality of water in which may be affected by any of the proposed discharges.

#### Textual Amendments

- F87** Words in Sch. 11 para. 1(3) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 126** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F88** Words in Sch. 11 para. 1(3)(a) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), **art. 1(2)**, **Sch. 2 para. 262(2)** (with Sch. 7)
- F89** Sch. 11 para. 1(3)(aa) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), **art. 1(2)**, **Sch. 2 para. 262(3)** (with Sch. 7)

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**F90** Sch. 11 para. 1(3)(e) substituted (24.5.2007) by [The Planning and Compulsory Purchase Act 2004 \(Corresponding Amendments\) Order 2007 \(S.I. 2007/1519\)](#), art. 1(1), **Sch. para. 8(a)** (with art. 1(3))

*Supply of copies of draft orders*

- 2 A water undertaker applying for a compulsory works order shall, at the request of any person and on payment by that person of such charge (if any) as the undertaker may reasonably require, furnish that person with a copy of the draft order submitted to the Secretary of State under paragraph 1 above and of any relevant map or plan.

*Powers on an application*

- 3 (1) On an application for a compulsory works order, the Secretary of State may make the order either in the terms of the draft order submitted to him or, subject to sub-paragraphs (2) and (3) below, in those terms as modified in such manner as he thinks fit, or may refuse to make an order.
- (2) The Secretary of State shall not make such a modification of a draft order submitted to him by any water undertaker as he considers is likely adversely to affect any persons unless he is satisfied that the undertaker has given and published such additional notices, in such manner, as the Secretary of State may have required.
- (3) The Secretary of State shall not, unless all interested parties consent, make a compulsory works order so as to confer in relation to any land any powers of compulsory acquisition which would not have been conferred in relation to that land if the order were made in the terms of the draft order submitted to him under paragraph 1 above.
- (4) Where, on an application by a water undertaker for a compulsory works order, the Secretary of State refuses to make an order, the undertaker shall, as soon as practicable after the refusal, notify the refusal to every person on whom it was, by virtue of paragraph 1(1)(c)(i) above, required to serve a copy of the notice with respect to the application.
- (5) The duty of a water undertaker under sub-paragraph (4) above shall be enforceable under section 18 of this Act by the Secretary of State.

*Consideration of objections etc.*

- 4 (1) If, where an application for a compulsory works order has been made by a water undertaker, any notice of an objection to it is received, before the end of the relevant period, by the Secretary of State from—
- (a) any person on whom a notice under paragraph 1 or 3 above is required to be served; or
  - (b) from any other person appearing to the Secretary of State to be affected by the order as submitted to him or as proposed to be modified under paragraph 3 above,
- then, unless the objection is withdrawn, the Secretary of State shall, before making the order, either cause a local inquiry to be held or afford to the objector and to the undertaker an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

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- (2) Where any objection received by the Secretary of State as mentioned in sub-paragraph (1) above relates to any powers of compulsory acquisition, the Secretary of State may require the objector to state in writing the grounds of his objection; and if the Secretary of State is satisfied that the objection relates exclusively to matters that can be dealt with in the assessment of compensation, he may disregard the objection for the purposes of that sub-paragraph.
- (3) In this paragraph “the relevant period”, in relation to an application for any order, means the period ending with whichever is the later of—
- (a) the end of the period of twenty-eight days beginning with the date of the first publication of the notice published with respect to the application for the purposes of paragraph 1(1)(b) above; and
  - (b) the end of the period of twenty-five days beginning with the date of the publication in the London Gazette of the notice published for the purposes of the application by virtue of paragraph 1(1)(d) above,
- together, in the case of an application for an order modifications to which have been proposed by the Secretary of State, with any further periods specified with respect to the modifications in notices under paragraph 3(2) above.

*Notice after making of order*

- 5 (1) As soon as practicable after a compulsory works order has been made, the undertaker on whose application it is made shall—
- (a) publish a notice of the making of the order, at least once in each of two successive weeks, in one or more newspapers circulating in each relevant locality; and
  - (b) not later than the date on which that notice is first published—
    - (i) serve a copy of the notice on every person on whom that undertaker was, by virtue of paragraph 1(1)(c)(i) above, required to serve a copy of the notice with respect to the application for the order; and
    - (ii) in the case of an order authorising the stopping-up or diversion of a footpath or bridleway, cause such a copy, together with a plan showing the general effect of the order so far as it relates to the footpath or bridleway, to be displayed in a prominent position at the ends of the appropriate part of the path or way.
- (2) The notice required by virtue of sub-paragraph (1)(a) above to be published with respect to a compulsory works order shall—
- (a) state the general effect of the order;
  - (b) in the case of an order made wholly or partly for the purpose of enabling any discharges of water to be made—
    - (i) contain particulars of the discharges, stating the purposes of the discharges and specifying each place of discharge;
    - (ii) specify the places at which the water to be comprised in the discharges is to be taken and the treatment (if any) which the order requires the water, or any of it, to receive before being discharged under the order; and
    - (iii) state the effect which, in the opinion of the applicant undertaker, the discharges would have on the flow, level and quality of water in any inland waters or underground strata;

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- and
- (c) specify a place where a copy of the order and of any relevant map or plan may be inspected by any person free of charge at all reasonable times.
- (3) Where a compulsory works order has been made, the undertaker on whose application it was made shall, at the request of any person and on payment by that person of such charge (if any) as that undertaker may reasonably require, furnish that person with a copy of the order and of any relevant map or plan.
- (4) The duties of a water undertaker under this paragraph shall be enforceable under section 18 of this Act by the Secretary of State.
- (5) In this paragraph “relevant locality”, in relation to any compulsory works order, means—
- (a) any locality which is affected by any provision made by the order for the purpose of enabling any engineering or building operations to be carried out; and
- (b) where provision is made by the order for the purpose of enabling discharges of water to be made, each locality in which the place of any of the discharges is situated or in which there appears to the undertaker which applied for the order to be any inland waters or underground strata the flow, level or quality of water in which may be affected by any of the discharges.

*Compulsory acquisition provisions*

- 6 (1) Without prejudice to the provisions of Schedule 14 to this Act—
- (a) Part I of the <sup>M25</sup>Compulsory Purchase Act 1965;
- (b) [<sup>F91</sup>sections 2A and] 4 and Part III of, and Schedule 3 to, the <sup>M26</sup>Acquisition of Land Act 1981; and
- (c) the enactments for the time being in force with respect to compensation for the compulsory purchase of land,
- shall apply in relation to so much of a compulsory works order as confers powers of compulsory acquisition as they apply in relation to a compulsory purchase order made by virtue of section 155 of this Act and, accordingly, shall so apply, where the case so requires, with the modifications made by Schedule 9 to this Act.
- (2) Subject to the provisions of sub-paragraph (6) below, if any person aggrieved by a compulsory works order containing powers of compulsory acquisition, or by a certificate given under the special land provisions in connection with such an order, desires—
- (a) to question the validity of the order, or of any provision of the order, on the grounds that any powers of compulsory acquisition conferred by the order are not authorised by this Act to be so conferred, or that any of the relevant requirements have not been complied with in relation to the order; or
- (b) to question the validity of the certificate on the grounds that any of the relevant requirements have not been complied with in relation to the certificate,
- he may make an application for the purpose to the High Court at any time before the end of the period of six weeks beginning with the date on which notice of the making of the order is first published in accordance with paragraph 5 above or, as the case may be, notice of the giving of the certificate is first published in accordance with the special land provisions.

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- (3) On any application under sub-paragraph (2) above with respect to any order or certificate, the High Court—
- (a) may by interim order suspend the operation of the order, or any provision of the order, or of the certificate (either generally or in so far as it affects any property of the applicant to the High Court) until the final determination of the proceedings; and
  - (b) if satisfied—
    - (i) that any powers of compulsory acquisition conferred by the order are not authorised by this Act to be so conferred; or
    - (ii) that the interests of that applicant have been substantially prejudiced by a failure to comply with any of the relevant requirements in relation to the order or the certificate,may quash the order, or any provision of the order, or the certificate (either generally or in so far as it affects any property of that applicant).
- (4) Except as provided by sub-paragraph (2) above, the validity of any such order or certificate as is mentioned in that sub-paragraph shall not, either before or after the order or certificate has been made or given, be questioned in any legal proceedings whatsoever.
- (5) Subject to any order of the High Court under sub-paragraph (3) above, any such order or certificate as is mentioned in sub-paragraph (2) above shall become operative (except, in the case of an order, where it is subject by virtue of the special land provisions to special parliamentary procedure) on the date on which notice of the making or giving of the order or certificate is published as mentioned in the said sub-paragraph (2).
- (6) Where an order such as is mentioned in sub-paragraph (2) above is subject to special parliamentary procedure, sub-paragraphs (2) to (4) of this paragraph—
- (a) shall not apply to the order if it is confirmed by Act of Parliament under section <sup>F92</sup>4 or] 6 of the <sup>M27</sup>Statutory Orders (Special Procedure) Act 1945; and
  - (b) in any other case, shall have effect as if the reference in sub-paragraph (2) of this paragraph to the date on which notice of the making of the order is first published in accordance with paragraph 5 above were a reference to the date on which the order becomes operative under the said Act of 1945.
- (7) In this paragraph—
- “the special land provisions” means the provisions, as applied by virtue of sub-paragraph (1) above, of Part III of the <sup>M28</sup>Acquisition of Land Act 1981 or, as the case may require, of Part II of Schedule 3 to that Act; and
  - “the relevant requirements”, in relation to an order or certificate, means the requirements of this Schedule and such requirements of the special land provisions or of any other enactment as are applicable to that order or certificate by virtue of this paragraph.

#### Textual Amendments

- F91** Words in [Sch. 11 para. 6\(1\)\(b\)](#) substituted (3.2.2017) by [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 17 para. 10; S.I. 2017/75, reg. 3\(g\)](#)

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**F92** Words in Sch. 11 para. 6(6)(a) inserted (25.6.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), [ss. 25\(9\), 35\(1\)](#); S.I. 2013/1488, art. 3(e) (with art. 8(3))

**Marginal Citations**

**M25** 1965 c. 56.  
**M26** 1981 c. 67.  
**M27** 1945 c. 18 (9 & 10 Geo. 6).  
**M28** 1981 c. 67.

*Compensation in certain cases of compulsory acquisition*

- 7       Where—
- (a) in connection with any engineering or building operations to which a compulsory works order relates, a licence under Chapter II of Part II of the <sup>M29</sup>Water Resources Act 1991 is granted, or is deemed to be granted, to the water undertaker in question; and
  - (b) that licence is a licence to abstract water or to obstruct or impede the flow of any inland waters,
- no compensation shall be payable by virtue of sub-paragraph (1) of paragraph 6 above in respect of any land or interest injuriously affected by the carrying out of those operations, in so far as that land or interest is injuriously affected by the abstraction of water, or the obstruction or impeding of the flow, in accordance with the provisions of the licence.

**Marginal Citations**

**M29** 1991 c. 57.

*Compensation in respect of powers other than acquisition powers*

- 8       (1) If the value of any interest in any relevant land is depreciated by the coming into force of so much of any compulsory works order as—
- (a) confers compulsory powers, other than powers of compulsory acquisition, for the purpose of enabling any engineering or building operations to be carried out; and
  - (b) grants authority for the carrying out of the operations,
- the person entitled to that interest shall be entitled to compensation from the applicant for the order of an amount equal to the amount of the depreciation.
- (2) Where the person entitled to an interest in any relevant land sustains loss or damage which—
- (a) is attributable to so much of any compulsory works order as—
    - (i) confers compulsory powers, other than powers of compulsory acquisition, for the purpose of enabling any engineering or building operations to be carried out; and
    - (ii) grants authority for the carrying out of the operations;
  - (b) does not consist in depreciation of the value of that interest; and
  - (c) is loss or damage for which he would have been entitled to compensation by way of compensation for disturbance, if his interest in that land had been

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- compulsorily acquired under section 155 of this Act in pursuance of a notice to treat served on the date on which the order comes into force,  
he shall be entitled to compensation from the applicant for the order in respect of that loss or damage, in addition to compensation under sub-paragraph (1) above.
- (3) Where any damage to, or injurious affection of, any land which is not relevant land is attributable to so much of any compulsory works order as—
- (a) confers compulsory powers, other than powers of compulsory acquisition, for the purpose of enabling any engineering or building operations to be carried out; and
  - (b) grants authority for the carrying out of the operations,
- the applicant for the order shall pay compensation in respect of that damage or injurious affection to every person entitled to an interest in that land.
- (4) A person who sustains any loss or damage which is attributable to any discharge of water made by a water undertaker in pursuance of a compulsory works order shall be entitled to recover compensation from the undertaker in respect of the loss or damage.
- (5) For the purposes of sub-paragraph (4) above any extra expenditure—
- (a) which it becomes reasonably necessary for any water undertaker or public authority (other than the undertaker making the discharge) to incur for the purpose of properly carrying out any statutory functions; and
  - (b) which is attributable to any such discharge of water as is mentioned in that sub-paragraph,
- shall be deemed to be a loss sustained by the undertaker or public authority and to be so attributable.
- (6) Any question of disputed compensation under this paragraph, shall be referred to and determined by the [<sup>F93</sup>Upper Tribunal]; and in relation to the determination of any such compensation the provisions of [<sup>F94</sup>section] 4 of the <sup>M30</sup>Land Compensation Act 1961 shall apply, subject to any necessary modifications.
- (7) For the purpose of assessing any compensation under this paragraph, so far as that compensation is in respect of loss or damage consisting in depreciation of the value of an interest in land, the rules set out in section 5 of the <sup>M31</sup>Land Compensation Act 1961 shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.
- (8) Where the interest in land in respect of which any compensation falls to be assessed in accordance with sub-paragraph (7) above is subject to a mortgage—
- (a) the compensation shall be assessed as if the interest were not subject to the mortgage;
  - (b) a claim for compensation may be made by any mortgagee of the interest, but without prejudice to the making of a claim by the person entitled to the interest;
  - (c) no such compensation shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage); and
  - (d) any such compensation which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee, or, if there is more

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than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.

- (9) In this paragraph “relevant land”, in relation to a compulsory works order, means any land which is not land in relation to which powers of compulsory acquisition are conferred by the order but is—
- (a) land where any operations for which authority is granted by the order are to be carried out;
  - (b) land in relation to which compulsory powers are conferred by the order; or
  - (c) land held with any land falling within paragraph (a) or (b) above.

#### Textual Amendments

- F93** Words in [Sch. 11 para. 8\(6\)](#) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order (S.I. 2009/1307), art. 5(1)(2), {Sch. 1 para. 223(a)} (with Sch. 5)
- F94** Word in [Sch. 11 para. 8\(6\)](#) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order (S.I. 2009/1307), art. 5(1)(2), {Sch. 1 para. 223(b)} (with Sch. 5)

#### Marginal Citations

- M30** 1961 c. 33.  
**M31** 1961 c. 33.

#### *Protection of public undertakings*

- 9 The provisions of section 186 of this Act and of Part I of Schedule 13 to this Act shall apply, as they apply in relation to the carrying out of works in exercise of powers under this Act, in relation to the carrying out of works by virtue of an authority granted by so much of any compulsory works order as makes provision other than provision conferring powers of compulsory acquisition.

#### *Interpretation*

- 10 In this Schedule—
- “bridleway” and “footpath” have the same meanings as in the <sup>M32</sup>Highways Act 1980;
- “compulsory works order” means an order under section 167 of this Act;
- “powers of compulsory acquisition” means any such powers as are mentioned in subsection (4)(a) of section 167 of this Act;

**F95**  
 ...

#### Textual Amendments

- F95** Words Sch. 11 para. 10 omitted (24.5.2007) by virtue of [The Planning and Compulsory Purchase Act 2004 \(Corresponding Amendments\) Order 2007 \(S.I. 2007/1519\)](#), art. 1(1), **Sch. para. 8(b)** (with art. 1(3))

#### Marginal Citations

- M32** 1980 c. 66.



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## SCHEDULE 12

Section 180.

## COMPENSATION ETC. IN RESPECT OF PIPE-LAYING AND OTHER WORKS POWERS

**Modifications etc. (not altering text)**

**C35** Sch. 12 applied (with modifications) (28.6.2013) by [The Water Industry \(Specified Infrastructure Projects\) \(English Undertakers\) Regulations 2013 \(S.I. 2013/1582\)](#), reg. 1(1)(b), [Sch. 1 para. 13\(3\)](#) (with reg. 1(1)(c))

*Compensation in respect of street works powers*

- 1 (1) This paragraph applies, in relation to a relevant undertaker, to the powers conferred on it in relation to streets by sections 158, 161 and 162 of this Act.
- (2) It shall be the duty of every relevant undertaker—
- (a) to do as little damage as possible in the exercise of the powers to which this paragraph applies; and
  - (b) to pay compensation for any loss caused or damage done in the exercise of those powers.
- (3) Any dispute as to whether compensation should be paid under sub-paragraph (2) above, or as to the amount of any such compensation, shall be referred to the arbitration of a single arbitrator appointed by agreement between the parties to the dispute or, in default of agreement, by the [<sup>F96</sup>Director].
- (4) Until the coming into force of Part III of the <sup>M33</sup>New Roads and Street Works Act 1991, a payment of compensation under this paragraph shall be treated for the purposes of section 32 of the <sup>M34</sup>Public Utilities Street Works Act 1950 (provisions against duplication of compensation) as made under an enactment passed before that Act of 1950; but nothing in this sub-paragraph shall be taken to prejudice the power of the Secretary of State under that Act of 1991 to make an order bringing Part III of that Act into force on different days for different purposes (including the purposes of this paragraph).

**Textual Amendments**

**F96** Word in [Sch. 12 para. 1\(3\)](#) substituted (1.7.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\)](#), s. 56(6), [Sch. 1 para.29](#); [Competition and Service \(Utilities\) Act 1992 \(Commencement No. 1\) Order 1992](#), art. 3, Sch. Pt.I

**Marginal Citations**

**M33** 1991 c. 22.

**M34** 1950 c. 39.

*Compensation in respect of pipe-laying works in private land*

- 2 (1) If the value of any interest in any relevant land is depreciated by virtue of the exercise, by any relevant undertaker, of any power to carry out pipe-laying works on private

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land, the person entitled to that interest shall be entitled to compensation from the undertaker of an amount equal to the amount of the depreciation.

- (2) Where the person entitled to an interest in any relevant land sustains loss or damage which—
- (a) is attributable to the exercise by any relevant undertaker of any power to carry out pipe-laying works on private land;
  - (b) does not consist in depreciation of the value of that interest; and
  - (c) is loss or damage for which he would have been entitled to compensation by way of compensation for disturbance, if his interest in that land had been compulsorily acquired under section 155 of this Act,
- he shall be entitled to compensation from the undertaker in respect of that loss or damage, in addition to compensation under sub-paragraph (1) above.
- (3) Where any damage to, or injurious affection of, any land which is not relevant land is attributable to the exercise by any relevant undertaker, of any power to carry out pipe-laying works on private land, the undertaker shall pay compensation in respect of that damage or injurious affection to every person entitled to an interest in that land.
- (4) The Secretary of State may by regulations make provision requiring a relevant undertaker, where it is proposing or has begun, in a prescribed case, to exercise any power to carry out pipe-laying works on private land, to make advance payments on account of compensation that will become payable in respect of the exercise of that power.
- (5) In this paragraph “relevant land”, in relation to any exercise of a power to carry out pipe-laying works on private land, means the land where the power is exercised or land held with that land.
- (6) In this paragraph the references to a power to carry out pipe-laying works on private land are references to any of the powers conferred by virtue of sections 159, 161(2) and 163 of this Act.

*Assessment of compensation under paragraph 2*

- 3 (1) Any question of disputed compensation under paragraph 2 above shall be referred to and determined by the [<sup>F97</sup>Upper Tribunal]; and in relation to the determination of any such compensation the provisions of [<sup>F98</sup>section] 4 of the <sup>M35</sup>Land Compensation Act 1961 shall apply, subject to any necessary modifications.
- (2) For the purpose of assessing any compensation under paragraph 2 above, so far as that compensation is in respect of loss or damage consisting in depreciation of the value of an interest in land, the rules set out in section 5 of the Land Compensation Act 1961 shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.
- (3) Where the interest in land in respect of which any compensation falls to be assessed in accordance with sub-paragraph (2) above is subject to a mortgage—
- (a) the compensation shall be assessed as if the interest were not subject to the mortgage;
  - (b) a claim for compensation may be made by any mortgagee of the interest, but without prejudice to the making of a claim by the person entitled to the interest;

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- (c) no such compensation shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage); and
  - (d) any such compensation which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee or, if there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.
- (4) Where, apart from this sub-paragraph, any person entitled to an interest in any land would be entitled under paragraph 2 above to an amount of compensation in respect of any works, there shall be deducted from that amount an amount equal to the amount by which the carrying out of the works has enhanced the value of any other land which—
- (a) is contiguous or adjacent to that land; and
  - (b) is land to an interest in which that person is entitled in the same capacity.

**Textual Amendments**

- F97** Words in *Sch. 12 para. 3(1)* substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order (S.I. 2009/1307), art. 5(1)(2), {Sch. 1 para. 224(a)} (with Sch. 5)
- F98** Word in *Sch. 12 para. 3(1)* substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order (S.I. 2009/1307), art. 5(1)(2), {Sch. 1 para. 224(b)} (with Sch. 5)

**Marginal Citations**

- M35** 1961 c. 33.

*Compensation in respect of sewerage works etc.*

- 4 (1) Subject to the following provisions of this paragraph, a sewerage undertaker shall make full compensation to any person who has sustained damage by reason of the exercise by the undertaker, in relation to a matter as to which that person has not himself been in default, of any of its powers under the relevant sewerage provisions.
- (2) Subject to sub-paragraph (3) below, any dispute arising under this paragraph as to the fact of damage, or as to the amount of compensation, shall be referred to the arbitration of a single arbitrator appointed by agreement between the parties to the dispute or, in default of agreement, by the <sup>F99</sup>Director].
- (3) If the compensation claimed under this paragraph in any case does not exceed <sup>F100</sup>£5,000], all questions as to the fact of damage, liability to pay compensation and the amount of compensation may, <sup>F101</sup>be referred to the Director for determination under section 30A of this Act by either party.]
- <sup>F102</sup>(4) . . . . .
- (5) No person shall be entitled by virtue of this paragraph to claim compensation on the ground that a sewerage undertaker has, in the exercise of its powers under the relevant sewerage provisions, declared any sewer <sup>F103</sup>, lateral drain] or sewage disposal works, whether belonging to that person or not, to be vested in the undertaker.

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### Textual Amendments

- F99** Word in [Sch. 12 para. 4\(2\)](#) substituted (1.7.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 56\(6\), Sch. 1 para. 30](#); [Competition and Service \(Utilities\) Act 1992 \(Commencement No. 1\) Order 1992, art. 3, Sch. Pt. I](#)
- F100** Words in [Sch. 12 para. 4\(3\)](#) substituted (1.9.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 56\(6\), Sch. 1 para. 31\(a\)](#); [Competition and Service \(Utilities\) Act 1992 \(Commencement No. 1\) Order 1992, art. 4, Sch. Pt. II](#)
- F101** Words in [Sch. 12 para. 4\(3\)](#) substituted (1.9.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 56\(6\)](#), [Sch. 1 para. 31\(b\)](#); [Competition and Service \(Utilities\) Act 1992 \(Commencement No. 1\) Order 1992, art. 4, Sch. Pt. II](#)
- F102** [Sch. 12 para. 4\(4\)](#) repealed (1.7.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 56\(6\), Sch. 2](#); [Competition and Service \(Utilities\) Act 1992 \(Commencement No. 1\) Order 1992, art. 3, Sch. Pt. I](#)
- F103** Words in [Sch. 12 para. 4\(5\)](#) inserted (28.5.2004) by [Water Act 2003 \(c. 37\), ss. 97\(10\), 105\(3\)](#); [S.I. 2004/641, art. 4\(b\)](#) (with [Sch. 3 para. 7](#))

### *Compensation in respect of metering works*

- 5 (1) Without prejudice to section 148 of this Act or to paragraph 11 of Schedule 6 to this Act or paragraph 1 above, where a person authorised by any relevant undertaker carries out any works by virtue of section 162 of this Act on any premises, the undertaker shall make good, or pay compensation for, any damage caused by that person or by any person accompanying him by or in connection with the carrying out of the works.
- (2) Any dispute between a relevant undertaker and any other person (including another such undertaker)—
- (a) as to whether the undertaker should pay any compensation under this paragraph; or
  - (b) as to the amount of any such compensation,
- shall be referred to the arbitration of a single arbitrator appointed by agreement between the undertaker and that person or, in default of agreement, by the Director.

### *Compensation in respect of discharges for works purposes*

- 6 (1) It shall be the duty of every water undertaker—
- (a) to cause as little loss and damage as possible in the exercise of the powers conferred on it by section 165 of this Act; and
  - (b) to pay compensation for any loss caused or damage done in the exercise of those powers.
- (2) For the purposes of subsection (1) above any extra expenditure—
- (a) which it becomes reasonably necessary for any other water undertaker or any sewerage undertaker or public authority to incur for the purpose of properly carrying out any statutory functions; and
  - (b) which is attributable to any discharge of water under section 165 of this Act, shall be deemed to be a loss sustained by the undertaker or public authority and to have been caused in exercise of the powers conferred by that section.
- (3) Any dispute as to whether compensation should be paid under sub-paragraph (1) above, or as to the amount of any such compensation, shall be referred to the

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arbitration of a single arbitrator appointed by agreement between the parties to the dispute or, in default of agreement, by the President of the Institution of Civil Engineers.

## SCHEDULE 13

Section 183.

### PROTECTIVE PROVISIONS IN RESPECT OF CERTAIN UNDERTAKINGS

#### Modifications etc. (not altering text)

**C36** Sch. 13 applied (with modifications) (28.6.2013) by [The Water Industry \(Specified Infrastructure Projects\) \(English Undertakers\) Regulations 2013](#) (S.I. 2013/1582), reg. 1(1)(b), **Sch. 1 para. 13(7)** (with reg. 1(1)(c))

## PART I

### PROVISIONS APPLYING GENERALLY

#### *General provisions protecting undertakings*

- 1 (1) Nothing in this Act conferring power on a relevant undertaker to carry out any works shall confer power to do anything, except with the consent of the persons carrying on an undertaking protected by this paragraph, which, whether directly or indirectly, so interferes or will so interfere—
  - (a) with works or property vested in or under the control of the persons carrying on that undertaking, in their capacity as such; or
  - (b) with the use of any such works or property,
 as to affect injuriously those works or that property or the carrying on of that undertaking.
- (2) Without prejudice to the construction of sub-paragraph (1) above for the purposes of its application in relation to the other provisions of this Act, that sub-paragraph shall have effect in its application in relation to the relevant sewerage provisions as if any use of, injury to or interference with any sluices, floodgates, sewers, groynes, sea defences or other works which are vested in or under the control of [<sup>F104</sup>the Environment Agency][<sup>F105</sup>or the NRBW] or an internal drainage board were such an interference with works or property vested in or under the control of [<sup>F104</sup>the Environment Agency][<sup>F105</sup>or the NRBW] or that board as to affect injuriously the works or property or the carrying on of the undertaking of [<sup>F104</sup>the Environment Agency][<sup>F105</sup>or the NRBW] or of that board.
- (3) A consent for the purposes of sub-paragraph (1) above may be given subject to reasonable conditions but shall not be unreasonably withheld.
- (4) Subject to the following provisions of this Schedule, any dispute—
  - (a) as to whether anything done or proposed to be done interferes or will interfere as mentioned in sub-paragraph (1) above;

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- (b) as to whether any consent for the purposes of this paragraph is being unreasonably withheld; or
- (c) as to whether any condition subject to which any such consent has been given was reasonable,

shall be referred to the arbitration of a single arbitrator to be appointed by agreement between the parties to the dispute or, in default of agreement, by the President of the Institution of Civil Engineers.

- (5) The following are the undertakings protected by this paragraph, that is to say-
- (a) the undertakings of [<sup>F104</sup>the Environment Agency], [<sup>F106</sup>the NRBW,] the Civil Aviation Authority, [<sup>F107</sup>the Coal Authority] and [<sup>F108</sup>a universal service provider (so far as it is the provider’s undertaking in relation to the provision of a universal postal service)];
  - (b) the undertaking of any relevant undertaker;
  - [<sup>F109</sup>(c) any undertaking consisting in the provision of an electronic communications network;]
  - (d) any airport to which Part V of the <sup>M36</sup>Airports Act 1986 applies;
  - (e) the undertaking of any public gas supplier within the meaning of Part I of the <sup>M37</sup>Gas Act 1986;
  - (f) the undertaking of any person authorised by a licence under Part I of the <sup>M38</sup>Electricity Act 1989 to generate, [<sup>F110</sup>supply or participate in the transmission of] electricity;
  - (g) the undertaking of any navigation, harbour or conservancy authority or of any internal drainage board;
  - (h) the undertaking of any railway undertakers;
  - (i) any public utility undertaking carried on by a local authority under any Act or under any order having the force of an Act.
  - <sup>F111</sup>[(j) the undertaking of any licensed operator, within the meaning of the Coal Industry Act 1994;]
  - [<sup>F112</sup>(k) the undertaking of a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services) to the extent that it is the person’s undertaking as licence holder.]

[<sup>F113</sup>(5A) In sub-paragraph (5)(a) above “universal service provider” has the same meaning as in [<sup>F114</sup>Part 3 of the Postal Services Act 2011]; and the reference to the provision of a universal postal service shall be construed in accordance with [<sup>F115</sup>that Part].]

- (6) For the purposes of this paragraph any reference in this paragraph, in relation to any such airport as is mentioned in sub-paragraph (5)(d) above, to the persons carrying on the undertaking is a reference to the airport operator.

#### Textual Amendments

- F104** Words in Sch. 13 para. 1(2)(5)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 127** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F105** Words in Sch. 13 para. 1(2) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), **art. 1(2)**, **Sch. 2 para. 263(2)** (with Sch. 7)
- F106** Words in Sch. 13 para. 1(5)(a) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), **art. 1(2)**, **Sch. 2 para. 263(3)** (with Sch. 7)

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- F107** Words in Sch. 13 para. 1(5)(a) substituted (31.10.1994) by 1994 c. 21, ss. 67(1), 68(2), **Sch. 9 para. 42(a)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F108** Words in Sch 13 para. 1(5)(a) substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 88(2)**
- F109** Sch. 13 para. 1(5)(c) substituted (25.7.2003) by Communications Act 2003 (c. 21), ss. 406, 411(2)(3), **Sch. 17 para. 111(2)**; S.I. 2003/1900, **art. 2(1)**, Sch. 1
- F110** Words in Sch. 13 para. 1(5)(f) substituted (1.9.2004) by Energy Act 2004 (c. 20), ss. 143, 198(2), **Sch. 19 para. 17**; S.I. 2004/2184, **art. 2(2)**, Sch. 2
- F111** Sch. 13 para. 1(5)(j) inserted (31.10.1994) by 1994 c. 21, ss. 67(1), 68(2), **Sch. 9 para. 42(b)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F112** Sch. 13 para. 1(5)(k) inserted (1.4.2001) by 2000 c. 38, s. 37, **Sch. 5 para. 14**; S.I. 2001/869, **art. 2**
- F113** Sch. 13 para. 1(5A) inserted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 88(3)**
- F114** Words in Sch. 13 para. 1(5A) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), **Sch. 12 para. 137(a)**; S.I. 2011/2329, art. 3
- F115** Words in Sch. 13 para. 1(5A) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), **Sch. 12 para. 137(b)**; S.I. 2011/2329, art. 3

#### Modifications etc. (not altering text)

- C37** Sch. 13 para. 1(5)(e) amended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(2)(m)**; S.I. 1996/218, **art. 2**

#### Marginal Citations

- M36** 1986 c. 31.  
**M37** 1986 c. 44.  
**M38** 1989 c. 29.

#### *Protection for statutory powers and jurisdiction*

- 2 Nothing in any provision of this Act conferring power on a relevant undertaker to carry out any works shall confer power to do anything which prejudices the exercise of any statutory power, authority or jurisdiction from time to time vested in or exercisable by any persons carrying on an undertaking protected by paragraph 1 above.

#### *Special protection for certain undertakings in respect of street works*

- 3 (1) Subject to the following provisions of this paragraph and without prejudice to the other provisions of this Schedule, the powers under the street works provisions to break up or open a street shall not be exercisable where the street, not being a highway maintainable at public expense (within the meaning of the<sup>M39</sup>Highways Act 1980)—
- (a) is under the control or management of, or is maintainable by, railway undertakers or a navigation authority; or
  - (b) forms part of a level crossing belonging to any such undertakers or to such an authority or to any other person,
- except with the consent of the undertakers or authority or, as the case may be, of the person to whom the level crossing belongs.
- (2) Sub-paragraph (1) above shall not apply to any exercise of the powers conferred by the street works provisions for the carrying out of emergency works, within the meaning of Part III of the<sup>M40</sup>New Roads and Street Works Act 1991.

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- (3) A consent given for the purposes of sub-paragraph (1) above may be made subject to such reasonable conditions as may be specified by the person giving it but shall not be unreasonably withheld.
- (4) Any dispute—
- (a) as to whether a consent for the purposes of sub-paragraph (1) above should be given or withheld; or
  - (b) as to whether the conditions to which any such consent is made subject are reasonable,
- shall be referred to the arbitration of a single arbitrator appointed by agreement between the parties to the dispute or, in default of agreement, by the President of the Institution of Civil Engineers.
- (5) If any relevant undertaker contravenes, without reasonable excuse, the requirements of sub-paragraph (1) above, it shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (6) The restrictions contained in paragraphs (1) to (5) of section 32 of the <sup>M41</sup>Tramways Act 1870 (protection of tramways) shall apply in relation to any exercise of a power conferred by the street works provisions—
- (a) as they apply in relation to the powers mentioned in that section; and
  - (b) as if references in that section to a tramway included references to a trolley vehicle system.
- (7) In this paragraph “the street works provisions” means so much of sections 158, 161 and 162 of this Act as relates to powers exercisable in relation to streets.
- (8) Until the coming into force of section 52 of the <sup>M42</sup>New Roads and Street Works Act 1991, sub-paragraph (2) above shall have effect as if the reference to Part III of that Act were a reference to the <sup>M43</sup>Public Utilities Street Works Act 1950; but nothing in this sub-paragraph shall be taken to prejudice the power of the Secretary of State under that Act of 1991 to make an order bringing that section 52 into force on different days for different purposes (including the purposes of this paragraph).

**Modifications etc. (not altering text)**

**C38** Sch. 13 para. 3 applied (with modifications) (21.7.1994) by 1994 c. xi, s. 11(2)

**Marginal Citations**

**M39** 1980 c. 66.  
**M40** 1991 c. 22.  
**M41** 1870 c. 78.  
**M42** 1991 c. 22.  
**M43** 1950 c. 39.

*Protection for telecommunication systems*

- 4 Paragraph 23 of Schedule 2 to the <sup>M44</sup>Telecommunications Act 1984 (which provides a procedure for certain cases where works involve the alteration of [<sup>F116</sup>electronic communications apparatus]) shall apply to every relevant undertaker



*Status: Point in time view as at 01/03/2017.*

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for the purposes of any works carried out by that undertaker in exercise of any of the powers conferred by any enactment <sup>F117</sup> ...

#### Textual Amendments

**F116** Words in Sch. 13 para. 4 substituted (25.7.2003) by [Communications Act 2003 \(c. 21\), ss. 406, 411\(2\)\(3\)](#), [Sch. 17 para. 111\(3\)](#); S.I. 2003/1900, [art. 2\(1\)](#), Sch. 1

**F117** Words in Sch. 13 para. 4 omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\), s. 115\(3\)\(r\)](#), [Sch. 23 para. 28\(4\)\(f\)](#)

#### Marginal Citations

**M44** 1984 c. 12.

## PART II

### FURTHER PROTECTIVE PROVISIONS IN RESPECT OF SEWERAGE POWERS

#### *Protection for dock undertakers*

- 5 (1) Subject to the provisions of this paragraph, nothing in the relevant sewerage provisions shall authorise a sewerage undertaker, without the consent of the dock undertakers concerned—
- (a) to interfere with any river, canal, dock, harbour, basin, lock or reservoir so as injuriously to affect navigation thereon or the use thereof or the access thereto, or to interfere with any towing path, so as to interrupt the traffic thereon;
  - (b) to interfere with any bridges crossing any river, canal, dock, harbour or basin;
  - (c) to carry out any works in, across or under any dock, harbour, basin, wharf, quay or lock, or any land which belongs to dock undertakers and is held or used by them for the purposes of their undertaking;
  - (d) to carry out any works which will interfere with the improvement of, or the access to, any river, canal, dock, harbour, basin, lock, reservoir, or towing path, or with any works appurtenant thereto or any land necessary for the enjoyment or improvement thereof.
- (2) For the purposes of this paragraph dock undertakers shall be deemed to be concerned with any river, canal, dock, harbour, basin, lock, reservoir, towing path, wharf, quay or land if—
- (a) it belongs to them and forms part of their undertaking; or
  - (b) they have statutory rights of navigating on or using it or of demanding tolls or dues in respect of navigation thereon or the use thereof.
- (3) A consent under this paragraph shall not be unreasonably withheld.
- (4) Any dispute as to whether or not consent under this paragraph is unreasonably withheld shall be referred, if either party so require, to the arbitration of a single arbitrator appointed by agreement between the parties or, in default of agreement, by the President of the Institution of Civil Engineers.
- (5) Upon an arbitration under this paragraph, the arbitrator shall determine—

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- (a) whether any works which the sewerage undertaker proposes to carry out are such works as under this paragraph the undertaker is not entitled to carry out without the consent of any dock undertakers;
  - (b) if they are such works, whether the injury, if any, to the undertakers will be of such a nature as to admit of being fully compensated by money; and
  - (c) if the works are of such a nature, the conditions subject to which the sewerage undertaker may carry out the works, including the amount of the compensation (if any) to be paid by the sewerage undertaker to the dock undertakers.
- (6) The sewerage undertaker in question shall not proceed to carry out any proposed works if, on an arbitration under this paragraph, the arbitrator determines—
- (a) that the proposed works are such works as the sewerage undertaker is not entitled to carry out without the consent of the dock undertakers; and
  - (b) that the works would cause injury to the dock undertakers of such a nature as not to admit of being fully compensated by money,
- but, in any other case, the sewerage undertaker may carry out the works subject to compliance with such conditions, including the payment of such compensation, as the arbitrator may have determined.
- (7) Nothing in this paragraph shall be construed as limiting the powers of a sewerage undertaker under this Act in respect of the opening and the breaking up of streets and bridges for the purpose of constructing, laying and maintaining sewers, drains and pipes.

*Protection for airports, railways etc.*

- 6 (1) Subject to the provisions of this paragraph, nothing in the relevant sewerage provisions shall authorise a sewerage undertaker, without the consent of the Civil Aviation Authority or, as the case may be, of the airport operator or railway undertakers concerned, to carry out any works along, across or under—
- (a) any property of the Civil Aviation Authority;
  - (b) an airport to which Part V of the <sup>M45</sup>Airports Act 1986 applies; or
  - (c) any railway of any railway undertakers.
- (2) Sub-paragraphs (3) to (7) of paragraph 5 above shall apply for the purposes of this paragraph as they apply for the purposes of sub-paragraph (1) of that paragraph but as if references to the dock undertakers were references, as the case may require, to the Civil Aviation Authority, to the relevant airport operator or to the railway undertakers.

**Marginal Citations**

**M45** 1986 c. 31.

*Saving for Part I and other powers*

- 7 The provisions of this Part of this Schedule are without prejudice to the provisions of Part I of this Schedule or to any power conferred on a sewerage undertaker otherwise than by the relevant sewerage provisions.

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## SCHEDULE 14

Section 188.

### MINERAL RIGHTS

#### *Acquisition of mineral rights*

- 1
- (1) This paragraph applies in each of the following cases, that is to say—
    - (a) where a relevant undertaker acquires any land (whether compulsorily in exercise of any power conferred by or under this Act or otherwise); and
    - (b) where a relevant undertaker carries out any works in relation to any land for the purposes of, or in connection with, the carrying out of any of its functions.
  - (2) Subject to sub-paragraph (3) below, a relevant undertaker shall not, by virtue only of its acquisition of the land or the carrying out of the works, become entitled to any mines or minerals lying under the land; and, accordingly, any such mines or minerals shall be deemed to be excepted from any instrument by virtue of which the land vests in the relevant undertaker unless express provision to the contrary is contained—
    - (a) where the land vests in the relevant undertaker by virtue of a conveyance, in the conveyance; or
    - (b) where the land is acquired by the relevant undertaker in pursuance of any power of compulsory acquisition conferred by or under this Act, in the order authorising the acquisition.
  - (3) A relevant undertaker shall be entitled to such parts of any mines or minerals that lie under the land as it may be necessary for it to dig, carry away or use in carrying out any works for the purposes of constructing, making, erecting or laying any part of its undertaking.

#### *Notice required for the working of underlying mines*

- 2
- (1) If the owner of any mines or minerals underlying any part of a relevant undertaker's undertaking proposes to work them, he shall, not less than thirty days before the commencement of working, serve notice of his intention to do so on the relevant undertaker.
  - (2) On receipt of a notice under sub-paragraph (1) above the relevant undertaker may cause the mines or minerals to be inspected by a person designated by it for the purpose.
  - (3) Subject to sub-paragraph (5) and paragraph 3 below, if, where notice has been served under this paragraph, the relevant undertaker—
    - (a) considers that the working of the underlying mines or minerals is likely to damage any part of its undertaking;
    - (b) is willing to compensate the owner of the mines or minerals for the restriction imposed by virtue of this sub-paragraph; and
    - (c) serves notice to that effect on the owner of the mines or minerals before the end of the period of thirty days mentioned in sub-paragraph (1) above,the owner shall not work the mines or minerals except to such extent as may be determined by the relevant undertaker, and the relevant undertaker shall so compensate the owner.
  - (4) Any dispute as to the amount of any compensation payable by virtue of sub-paragraph (3) above shall be referred to and determined by the [F118]Upper Tribunal].

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- (5) If before the end of the period of thirty days mentioned in sub-paragraph (1) above, no notice has been served under sub-paragraph (3)(c) above by the relevant undertaker, the entitlement of the owner of the mines and minerals to work them shall be an entitlement to work them by proper methods and in the usual manner of working such mines or minerals in the district in question.
- (6) If any damage to the undertaking of a relevant undertaker is caused by the working otherwise than as authorised by this paragraph of any mines or minerals underlying any part of its undertaking—
- (a) the owner of the mines or minerals shall, at his own expense, forthwith repair the damage; and
  - (b) the relevant undertaker may, without waiting for the owner to perform his duty, repair the damage and may recover the expenses reasonably incurred by it in doing so from the owner.

#### Textual Amendments

**F118** Words in [Sch. 12 para. 2\(4\)](#) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order ([S.I. 2009/1307](#)), art. 5(1)(2), {Sch. 1 para. 225} (with Sch. 5)

#### *Mining communications*

- 3 (1) If the working of any mines or minerals is prevented by reason of any of the preceding provisions of this Schedule, the owner of the mines or minerals may cut and make such communication works through the mines or minerals, or the strata in which they are situated, as are required for the ventilation, drainage and working of mines or minerals which are not underlying any part of the undertaking of the relevant undertaker in question.
- (2) Communication works cut or made under this paragraph—
- (a) shall not, in a case where—
    - (i) the part of the undertaking in question was constructed, made, erected or laid in pursuance of an order made under any enactment or is situated on land acquired by the relevant undertaker in pursuance of any powers of compulsory acquisition; and
    - (ii) the order authorising the works or acquisition designates dimensions or sections for the communication works,
 exceed those dimensions or fail to conform to those sections; and
  - (b) in any other case, shall not be more than 2.44 metres high or more than 2.44 metres wide.
- (3) Communication works cut or made under this paragraph shall not be cut or made on the land where the part of the undertaking is situated so as to cause damage to that part of the undertaking.
- (4) Where works carried out under this paragraph by the owner of any mines or minerals cause loss or damage to the owner or occupier of land lying over the mines or minerals, the relevant undertaker shall pay full compensation to him for the loss or damage.
- (5) Sub-paragraph (4) above shall not apply where the person sustaining the loss or damage is the owner of the mines.

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- (6) In this paragraph “communication works” means airways, headways, gateways or water levels.

*Compensation relating to severance*

- 4 (1) Where mines or minerals underlying any part of a relevant undertaker’s undertaking are situated so as, on two or more sides of that land, to extend beyond the land on which that part of the undertaking is situated, the relevant undertaker shall from time to time pay to the owner of the mines or minerals (in addition to any compensation under paragraph 2 above) any expenses and losses incurred by him in consequence of—
- (a) the severance by the undertaking of the land lying over the mines;
  - (b) the interruption of continuous working of the mines in consequence of paragraph 2(3) above;
  - (c) the mines being so worked in accordance with restrictions imposed by virtue of this Act or any order made under this Act,
- and shall pay for any minerals not purchased by the relevant undertaker which cannot be got or won by reason of the part of the undertaking in question being situated where it is or by reason of the requirement to avoid damage to any part of the relevant undertaker’s undertaking.
- (2) Any dispute as to whether any sum should be paid under this paragraph or as to the amount payable shall be referred to the arbitration of a single arbitrator appointed by agreement between the relevant undertaker and the owner of the mines or minerals or, in default of agreement, by the Secretary of State.

*Powers of entry*

- 5 (1) Any person designated in writing for the purpose by a relevant undertaker may, for any purpose specified in sub-paragraph (2) below—
- (a) enter on any land in which the mines or minerals are, or are thought to be, being worked, and which is in or near to the land where any part of that undertaker’s undertaking is situated; and
  - (b) enter the mines and any works connected with the mines.
- (2) The purposes mentioned in sub-paragraph (1) above are—
- (a) carrying out any inspection under paragraph 2(2) above;
  - (b) ascertaining whether any mines or minerals have been worked so as to damage the undertaking of the relevant undertaker in question; and
  - (c) carrying out any works and taking any other steps which the relevant undertaker in question is authorised to carry out or take under paragraph 2(6) above.
- (3) A person authorised to enter any premises under this paragraph may—
- (a) make use of any equipment belonging to the owner of the mines or minerals in question; and
  - (b) use all necessary means for discovering the distance from any part of the undertaking of the relevant undertaker to the parts of the mines or the minerals which are, or are about to be, worked.
- (4) Part II of Schedule 6 to this Act shall apply to the rights and other powers conferred by this paragraph.

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*No exemption for injury to mines and minerals*

- 6 Nothing in any provision of this Act or of any order made under this Act shall be construed as exempting a relevant undertaker from any liability to which it would, apart from that provision, have been subject in respect of any damage to any mines or minerals underlying any part of its undertaking or in respect of any loss sustained in relation to any such mines or minerals by a person having an interest therein.

*Interpretation*

- 7 (1) In this Schedule—
- “conveyance” has the same meaning as in the <sup>M46</sup>Law of Property Act 1925;
- “designated distance”, in relation to any part of a relevant undertaker’s undertaking, means, subject to sub-paragraph (6) below, thirty-seven metres;
- “mines” means mines of coal, ironstone, slate or other minerals;
- “owner”, in relation to mines and minerals, includes a lessee or occupier;
- and
- “underlying”, in relation to any part of the undertaking of a relevant undertaker, means lying under, or within the designated distance from, that part of that undertaking.
- (2) For the purposes of this Schedule the undertaking of a relevant undertaker shall be taken to consist of so much of any of the following as is for the time being vested in or held by that undertaker for the purposes of, or in connection with, the carrying out of any of its functions, that is to say—
- (a) any buildings, reservoirs, wells, boreholes or other structures; and
  - (b) any pipes or other underground works particulars of which fall or would fall to be incorporated in any records kept under section 198 or 199 of this Act.
- (3) References in this Schedule to the working of any mines or minerals include references to the draining of mines and to the winning or getting of minerals.
- (4) For the purposes of this Schedule land shall be treated as acquired by a relevant undertaker in pursuance of powers of compulsory acquisition if it—
- (a) was so acquired by a water authority established under section 2 of the <sup>M47</sup>Water Act 1973 or any predecessor of such a water authority or by a predecessor of a statutory water company; and
  - (b) is now vested in that undertaker in accordance with a scheme under Schedule 2 to the <sup>M48</sup>Water Act 1989 or Schedule 2 to this Act or otherwise.
- (5) In relation—
- (a) to any land treated by virtue of sub-paragraph (4) above as acquired in pursuance of powers of compulsory acquisition; or
  - (b) to any land acquired by a statutory water company before 1st September 1989 in pursuance of any such powers,
- references in this Schedule to the order authorising the acquisition include references to any local statutory provision which immediately before 1st September 1989 had effect in relation to that land for the purposes of any provisions corresponding to the provisions of this Schedule.
- (6) For the purposes of this Schedule where—

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- (a) any part of a relevant undertaker's undertaking was constructed, made, erected or laid in pursuance of an order made under any enactment or is situated on land acquired by the relevant undertaker in pursuance of any powers of compulsory acquisition; and
- (b) the order authorising the works or acquisition designates any distance for the purposes of any enactment relating to mines or minerals underlying that part of the undertaking,

then for the purposes of this Schedule that distance shall be the designated distance in relation to that part of the undertaking, instead of the distance specified in subparagraph (1) above.

#### Marginal Citations

**M46** 1925 c. 20.

**M47** 1973 c. 37.

**M48** 1989 c. 15.

## SCHEDULE 15

### DISCLOSURE OF INFORMATION

#### PART I

##### PERSONS IN RESPECT OF WHOSE FUNCTIONS DISCLOSURE MAY BE MADE

Any Minister of the Crown.

**F119** ...

#### Textual Amendments

**F119** Words in Sch. 15 Pt. 1 omitted (1.4.2014) by virtue of [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 94\(a\)](#) (with art. 3)

The [<sup>F120</sup>CMA]

#### Textual Amendments

**F120** Word in Sch. 15 Pt. 1 substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 94\(a\)](#) (with art. 3)

[<sup>F121</sup>The Office of Communications]

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**Textual Amendments**

**F121** Sch. 15 Pt. 1: entry substituted (25.7.2003) by [Communications Act 2003 \(c. 21\), ss. 406, 411\(2\)\(3\), Sch. 17 para. 112\(2\)](#); S.I. 2003/1900, [art. 2\(1\)](#), Sch. 1

The Civil Aviation Authority.

The Director General of Gas Supply.

The Director General of Electricity Supply.

[<sup>F122</sup>The Office of Rail and Road.]

**Textual Amendments**

**F122** Words in Sch. 15 substituted (16.10.2015) by [The Office of Rail Regulation \(Change of Name\) Regulations 2015 \(S.I. 2015/1682\), reg. 1\(2\), Sch. para. 4\(i\)](#)

[<sup>F123</sup>The National Association of Citizens Advice Bureaux.]

**Textual Amendments**

**F123** Words in Sch. 15 Pt. 1 inserted (1.4.2014) by [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\), art. 1\(3\), Sch. 1 para. 6\(a\)](#) (with Sch. 1 para. 28, Sch. 2 paras. 13-15)

A local weights and measures authority in England and Wales.

<sup>F124</sup> ...

**Textual Amendments**

**F124** Sch. 15 Pt. 1 entry omitted (1.4.2014) by virtue of [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\), art. 1\(3\), Sch. 1 para. 6\(b\)](#) (with Sch. 1 para. 28, Sch. 2 paras. 13-15)

## PART II

### ENACTMENTS ETC. IN RESPECT OF WHICH DISCLOSURE MAY BE MADE

**Modifications etc. (not altering text)**

**C39** Sch. 15 Pt. 2 modified (8.2.2007 in accordance with art. 1 of amending S.I.) by [The Wireless Telegraphy \(Pre-Consolidation Amendments\) Order 2006 \(S.I. 2006/1391\), art. 2, Sch. para. 7\(3\)\(b\)](#)

The <sup>M49</sup>Trade Descriptions Act 1968.



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**Marginal Citations**

**M49** 1968 c. 29.

The <sup>M50</sup>Fair Trading Act 1973.

**Marginal Citations**

**M50** 1973 c. 41.

The <sup>M51</sup>Consumer Credit Act 1974.

**Marginal Citations**

**M51** 1974 c. 39.

<sup>F125</sup>  
...

**Textual Amendments**

**F125** Entries in Sch. 15 Pt. II repealed (1.3.2000) by 1998 c. 41, ss. 66(5), 74(3), Sch. 10 Pt. IV para. 13(10) (a), **Sch. 14 Pt. I** (with s. 73); S.I. 2000/344, art. 2, **Sch.**

<sup>F125</sup>  
...

The <sup>M52</sup>Estate Agents Act 1979.

**Marginal Citations**

**M52** 1979 c. 38.

The <sup>M53</sup>Competition Act 1980.

**Marginal Citations**

**M53** 1980 c. 21.

The <sup>M54</sup>Telecommunications Act 1984.

**Marginal Citations**

**M54** 1984 c. 12.

The <sup>M55</sup>Airports Act 1986.

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**Marginal Citations**

**M55** [1986 c. 31.](#)

The <sup>M56</sup>Gas Act 1986.

**Marginal Citations**

**M56** [1986 c. 44.](#)

The <sup>M57</sup>Consumer Protection Act 1987.

**Marginal Citations**

**M57** [1987 c. 43.](#)

The <sup>M58</sup>Electricity Act 1989.

**Marginal Citations**

**M58** [1989 c. 29.](#)

[<sup>F126</sup>The Railways Act 1993]

**Textual Amendments**

**F126** Entry in Sch. 15 Pt. II inserted (6.1.1994) by [1993 c. 43, ss. 150\(1\)\(o\), 152\(1\), Sch. 12 para. 30; S.I. 1993/3237, art. 2\(2\).](#)

<sup>F127</sup>[The Competition Act 1998]

**Textual Amendments**

**F127** Entry in Sch. 15 Pt. II inserted (11.1.1999) by [1998 c. 41, s. 66\(5\), Sch. 10 Pt. IV para. 13\(10\)\(b\)](#) (with [s. 73](#)); [S.I. 1998/3166, art. 2, Sch.](#)

[<sup>F128</sup>Part I of the Transport Act 2000.]

**Textual Amendments**

**F128** Entry in Sch. 15 Pt. II inserted (21.12.2001) by [S.I. 2001/4050, art. 2, Sch. Pt. IV para. 21](#)

[<sup>F129</sup>The Enterprise Act 2002.]

*Status: Point in time view as at 01/03/2017.*

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#### Textual Amendments

**F129** Sch. 15 Pt. 2: entry inserted (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 278, 279, **Sch. 25 para. 25(12)(b)**; S.I. 2003/1397, **art. 2(1)**, Sch.

[<sup>F130</sup>The Communications Act 2003.]

#### Textual Amendments

**F130** Sch. 15 Pt. 2: entry inserted (25.7.2003) by [Communications Act 2003 \(c. 21\)](#), ss. 406, 411(2)(3), **Sch. 17 para. 112(3)**; S.I. 2003/1900, **art. 2(1)**, Sch. 1

[<sup>F131</sup>The Railways Act 2005.]

[<sup>F132</sup>The Consumers, Estate Agents and Redress Act 2007.]

#### Textual Amendments

**F131** Sch. 15 Pt. 2: entry inserted (8.6.2005) by [Railways Act 2005 \(c. 14\)](#), ss. 59, 60, **Sch. 12 para. 10**; S.I. 2005/1444, **art. 2(1)**, Sch. 1

**F132** Sch. 15 Pt. 2: entry inserted (1.10.2008) by [Consumers, Estate Agents and Redress Act 2007 \(c. 17\)](#), ss. 63, 66, **Sch. 7 para. 10(b)**; S.I. 2008/2550, **art. 2**, Sch. (subject to art. 3)

[<sup>F133</sup>Part 1 of the Civil Aviation Act 2012.]

#### Textual Amendments

**F133** Words in Sch. 15 Pt. 2 inserted (6.4.2013) by [Civil Aviation Act 2012 \(c. 19\)](#), s. 110(1), **Sch. 9 para. 6** (with [Sch. 10 paras. 12, 17](#)); S.I. 2013/589, **art. 2(3)**

**F134** . . .

#### Textual Amendments

**F134** Words in Sch. 15 Pt. 2 repealed (26.5.2008) by [The Consumer Protection from Unfair Trading Regulations \(S.I. 2008/1277\)](#), reg. 30(1)(3), Sch. 2 para. 49(a), {Sch. 4 Pt. 1} (with reg. 28(2)(3))

[<sup>F135</sup>Any subordinate legislation made for the purpose of securing compliance with [Directive 2005/29/EC](#) of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market.

#### Textual Amendments

**F135** Words in Sch. 15 Pt. 2 inserted (26.5.2008) by [The Consumer Protection from Unfair Trading Regulations \(S.I. 2008/1277\)](#), reg. 30(1), {Sch. 2 para. 49(b)} (with reg. 28(2)(3))

Any subordinate legislation made for the purpose of securing compliance with [Directive 2006/114/EC](#) of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising.]

*Status: Point in time view as at 01/03/2017.*

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[<sup>F136</sup>Parts 3 and 4 of the Enterprise and Regulatory Reform Act 2013.]

**Textual Amendments**

**F136** Words in Sch. 15 Pt. 2 inserted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 94\(b\)](#) (with art. 3)

[<sup>F137</sup>SCHEDULE 16

PROCEDURE ON APPEALS UNDER SECTION 207A

**Textual Amendments**

**F137** Sch. 16 inserted (1.4.2016) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 6](#); [S.I. 2016/465](#), art. 2(l) (with [Sch. 2](#)) (as amended (22.3.2017) by [S.I. 2017/462](#), art. 16)

*Regulations as to procedure*

- 1       The Secretary of State may by regulations make provision about the procedure applying to appeals under section 207A.

*Particular provision*

- 2       Regulations under this Schedule may in particular make provision about—
- (a) making an application for permission to bring an appeal;
  - (b) imposing conditions on the granting of permission to appeal (including conditions requiring an appeal to be considered together with other appeals, whether relating to the same revision or the same code or not);
  - (c) the persons who may be party to an appeal;
  - (d) making an application for permission to be made party to an appeal;
  - (e) imposing conditions on the granting of permission to become party to an appeal;
  - (f) enabling a member of the CMA to make decisions as to the matters referred to in paragraphs (a), (b), (d) and (e);
  - (g) enabling a member of the CMA to direct, pending the determination of the appeal, that the code in question—
    - (i) is to have effect without the revision, or
    - (ii) is to have effect with the revision but with modifications specified by the direction;
  - (h) the number of persons in a group constituted to hear an appeal;
  - (i) the making of a decision by the group;
  - (j) the participation of the Authority in the appeal (including provision as to the making of representations and observations by the Authority otherwise than in connection with the consideration of the appeal);
  - (k) the imposing of time limits (including provision for time limits to be waived in certain cases by a member of the CMA);

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- (l) orders for costs;
- (m) the recovery of the CMA's costs.

*Consideration and determination of appeals*

- 3 (1) Regulations under this Schedule may make provision about—
- (a) the consideration and determination of the appeal;
  - (b) giving effect to the determination.
- (2) Provision under sub-paragraph (1)(a) may include in particular—
- (a) provision for disregarding, when determining an appeal, matters not raised as required by the regulations;
  - (b) provision as to the time within which an appeal is to be determined.

*Evidence*

- 4 (1) Regulations under this Schedule may make provision about—
- (a) requiring the production of documents;
  - (b) requiring persons to attend an oral hearing;
  - (c) requiring persons attending an oral hearing—
    - (i) to give evidence at the hearing;
    - (ii) to make representations and observations;
  - (d) requiring persons—
    - (i) to produce a written statement;
    - (ii) to verify the statement by a statement of truth.
- (2) No person is to be compelled under the regulations—
- (a) to produce a document that the person could not be compelled to produce in civil proceedings in the High Court;
  - (b) to give evidence which the person could not be compelled to give in civil proceedings in the High Court;
  - (c) to produce a written statement with respect to a matter about which the person could not be compelled to give evidence in civil proceedings in the High Court.
- (3) The regulations may provide for a notice requiring the production of documents, attendance of a person, or the production of a written statement to be issued by any member of the CMA.
- 5 (1) Regulations under this Schedule may provide for penalties to be imposed where—
- (a) a person fails without reasonable excuse to comply with a requirement imposed in accordance with regulations under paragraph 4;
  - (b) having been required to produce a document in accordance with paragraph 4, a person wilfully alters, suppresses or destroys the document;
  - (c) having been required to produce a written statement in accordance with paragraph 4, a person makes without reasonable excuse a false statement in the written statement produced;
  - (d) having been required by appeal rules to verify information with a statement of truth, a person provides without reasonable excuse information that is false in a material particular.

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- (2) The regulations may provide for conduct falling within sub-paragraph (1)(a), (c) or (d) to be punished by the High Court as if the person had been guilty of contempt.
- (3) The regulations may provide that, where a body corporate may be punished for contempt of court, the High Court has power to punish for contempt of court any director or other officer of the body (instead of or as well as the body).
- (4) The regulations may provide for conduct falling within sub-paragraph (1)(b) to be an offence triable either summarily or on indictment.
- (5) The regulations may provide for such an offence to be punishable—
  - (a) on summary conviction, by a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, by imprisonment for a term not exceeding two years or by a fine, or by both.

#### *Appeal rules*

- 6 (1) The CMA may make rules regulating the conduct and disposal of appeals.
- (2) The rules may include provision supplementing regulations made under this Schedule; and that provision may, in particular, impose time limits or other restrictions on—
  - (a) the taking of evidence at an oral hearing;
  - (b) the making of representations or observations at such a hearing.
- (3) The CMA must publish rules made under this paragraph in such manner as it considers appropriate for the purpose of bringing them to the attention of those likely to be affected by them.
- (4) Before making rules under this paragraph, the CMA must consult such persons as it considers appropriate.
- (5) Rules under this paragraph may make different provision for different cases.

#### *Interpretation*

- 7 In this Schedule—
  - “appeal” means an appeal under section 207A;
  - “appeal rules” means rules under paragraph 6;
  - “statement of truth” means a statement that the person producing the document believes the facts stated in the document to be true.]

### TABLE OF DERIVATIONS

#### *Notes:*

1. The following abbreviations are used in this Table:—

1936 =	The Public Health Act 1936 (c. 49)
1937 =	The Public Health (Drainage of Trade Premises) Act 1937 (c. 40)

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1945 =	The Water Act 1945 (c. 42)
1948 =	The Water Act 1948 (c. 22)
1961(F) =	The Factories Act 1961 (c. 34)
1961 =	The Public Health Act 1961 (c. 64)
1963(L) =	The London Government Act 1963 (c. 33)
1973 =	The Water Act 1973 (c. 37)
1974 =	The Control of Pollution Act 1974 (c. 40)
1977 =	The Criminal Law Act 1977 (c. 45)
1980 =	The Highways Act 1980 (c. 66)
1981 =	The Water Act 1981 (c. 12)
1981(SC) =	[ <sup>F138</sup> Senior Courts Act 1981]
1982(CA) =	The Civil Aviation Act 1982 (c. 16)
1982(CJA) =	The Criminal Justice Act 1982 (c. 43)
1985(LG) =	The Local Government Act 1985 (c. 51)
1985 =	The Water (Fluoridation) Act 1985 (c. 63)
1986(AA) =	The Airports Act 1986 (c. 31)
1986(GA) =	The Gas Act 1986 (c. 44)
1989 =	The Water Act 1989 (c. 15)
1989(EA) =	The Electricity Act 1989 (c. 29)
1990(FS) =	The Food Safety Act 1990 (c. 16)
1990(EP) =	The Environmental Protection Act 1990 (c. 43)
1991(NR) =	The New Roads and Street Works Act 1991 (c. 22)
R: (followed by a number) =	The recommendation so numbered as set out in the Appendix to the Report of the Law Commission (Cm. 1483).

#### Textual Amendments

**F138** Table of Derivations: for the words "Supreme Court Act 1981" wherever they occur there is substituted (1.10.2009) the words "Senior Courts Act 1981" by virtue of [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148(1), [Sch. 11 para. 1\(2\)](#); S.I. 2009/1604, [art. 2](#)

2. The functions originally vested in the Minister of Health under 1936 and 1937 have become vested in the Secretary of State as a result of the following transfer of functions orders ("TFOs"): SI 1951/142; SI 1951/1900; SI 1965/319; 1970/1681. Other TFOs, where applicable in relation to a provision re-enacted in this Bill, are specified at the appropriate place in column 2 of this Table.

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3. General provisions contained in section 32 of the Magistrates' Courts Act 1980 (c. 43) and section 46 of the Criminal Justice Act 1982 (c. 48) provide, respectively, for the maximum fine on summary conviction of an either way offence to be the statutory maximum and for a reference to the amount of the maximum fine to which a person is liable in respect of a summary offence to become a reference to a level on the standard scale. Where the effect of one of these enactments is consolidated it is not referred to separately in column 2 of this Table.

<b>Provision of Act</b>	<b>Derivation</b>
1	1989 s. 5.
2	1989 s. 7(1)–(4).
3	1989 ss. 8(1)–(3), (5)–(7) & 20(8)(a)(i) & (c).
4	1989 ss. 9 & 20(8)(a)(i) & (c); 1990(EP) Sch 9 para 17(2).
5	1989 s. 10; 1990(EP) Sch 9 para 17(3).
6	1989 s. 11(1)–(3), (5) & (8).
7	1989 ss. 11(4)(part), (6) & (7) & 12 (2).
8	1989 s. 13(1), (2)(part), (3), (5) & (7).
9	
(1)	1989 s. 13(2)(part).
(2)	1989 s. 13(4).
(3) & (4)	1989 s. 12(3) & (4).
(5)	1989 s. 12(4) & (6).
10	1989 s. 13(6).
11	1989 s. 14(1), (3) & (8)–(10).
12	1989 s. 14(2), (6) & (7).
13	1989 s. 15.
14	1989 s. 16.
15	1989 s. 17.
16	1989 s. 18.
17	1989 s. 19.
18	1989 s. 20(1)–(4) & (7)–(10).
19	1989 s. 20(5), (6) & (8).
20	1989 s. 21.
21	1989 s. 22(1)–(3).
22	1989 s. 22(4)–(8).
23	1989 s. 23(2), (3), (8) & (9).
24	1989 s. 23(1), (4)–(7) & (9).
25	1989 s. 24(2).



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26	1989 ss. 24(1) & 23(9).
27	1989 s. 26.
28	1989 s. 6.
29	1989 s. 27(1), (3) & (4).
30	1989 s. 27 (2).
31	1989 s. 28.
32	1989 s. 29(1), (3) & (4).
33	1989 s. 29(3), (5), (6) & (10).
34	1989 s. 30(1)–(5).
35	1989 ss. 29(2), (8) & (9) & 30(6).
36	1989 s. 12(1), (5) & (6).
37	1989 ss. 37 & 38(6).
38	1989 s. 38(1)–(3).
39	1989 s. 38(4).
40	1989 s. 39.
41	1989 s. 40(1) & (2) & (6)–(8).
42	1989 s. 41(1), (2) & (8)–(10).
43	1989 s. 41(3)–(7) & (9).
44	1989 s. 40(3)–(5) & (8).
45	1989 ss. 42(1),(2) & (5), 44(1), (4) & (5) & 176.
46	1989 ss. 42(3)–(5) & 44(1) & (4)–(6).
47	1989 s. 43(1) & (2).
48	1989 s. 43(3).
49	1989 s. 43(4)–(6).
50	1989 s. 43(7).
51	1989 ss. 42(6), 44(2), (3) & (7) & 176.
52	1989 s. 45(1)–(5).
53	1989 s. 45(6).
54	1989 s. 45(7) & (8).
55	1989 ss. 46(1)–(3), (7)–(9) & 49(1)(part).
56	1989 s. 46(4)–(6).
57	1989 s. 47(1), (2), (4)–(9) & (11).
58	1989 s. 47(3) & (6)–(11).
59	1989 s. 48.

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60	1989 s. 49(1)–(3).
61	1989 s. 49(1) & (4)–(6).
62	1989 s. 49(1) & (7).
63	1989 s. 49(8) & (9).
64	1989 s. 50.
65	1989 s. 51(1)–(4) & (7)–(9).
66	1989 s. 51(5), (6) & (10).
67	1989 s. 65.
68	1989 s. 52; 1990(FS) s. 55(2).
69	1989 s. 53; 1990(FS) s. 55(2).
70	1989 s. 54.
71	1945 s. 14(9), (10) & (12); 1948 s. 5(4); 1977 Sch 6; 1989 Sch 25 para 7(1).
72	1945 s. 21(1), (3) & (4); 1989 Sch 25 para 7(4)(a) & (d); R: 21.
73	1989 s. 61.
74	1989 s. 62(1)–(4), (6) & (7) & Sch 26 para 19.
75	1989 s. 63.
76	1945 s. 16(1)–(4); 1977 Sch 6; IA s. 17; 1989 Sch 25 para 7(3)(a)–(c).
77	1989 s. 56(1) & (4)–(6).
78	1989 s. 56(2) & (3); 1990(FS) s. 55(3).
79	1989 ss. 55 & 56(2)(part).
80	1989 ss. 57 & 164(3); 1990(FS) s. 55(4).
81	1989 s. 58(1)–(4).
82	1989 s. 58(5)–(10).
83	1989 s. 164.
84	1945 ss. 21(2) & (2A), 53 & 59; 1963(L) Sch 11 Pt I para 27; 1989 ss. 59(2) & 62(4) & Sch 25 para 7(4)(b) & (c).
85	1989 s. 59(1), (4) & (5).
86	1989 s. 60(1)–(4) & (6).
87	1985 ss. 1 & 5; 1989 Sch 25 para 73.
88	1985 ss. 2 & 5; 1989 Sch 25 para 73.
89	1985 ss. 4 & 5; 1989 Sch 25 para 73.
90	1989 s. 172.

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91 Introduces Sch 7.

92	1989 s. 171.
93	1989 ss. 66 & 164(3) & Sch 19 para 11; 1990(FS) s. 55(5) & (6).
94	1989 ss. 67 & 68(6).
95	1989 s 68(1)–(3).
96	1989 s. 68(4).
97	1989 s. 73 & Sch 25 para 3.
98	1989 s. 71(1)–(3), (7) & (8).
99	1989 s. 72(1), (2) & (8)–(10).
100	1989 s. 72(3)–(7) & (9).
101	1989 s. 71(4)–(6) & (9).
102	1936 s. 17(1), (2) & (4)–(6); 1973 s. 14; 1989 Sch 8 para 1.
103	1936 s. 17(7)–(9); 1973 s. 14; 1989 Sch 8 para 1; R: 1.
104	1936 s. 18(1)–(4); 1973 s. 14; 1989 s. 176 and Sch 8 paras 1 & 2(1).
105	1936 ss. 17(3) & 18(4)–(6); 1973 s. 14; 1989 s. 176 and Sch 8 paras 1 & 2(1).
106	1936 ss. 34(1) & (3), 303–302 & 343(1) (part); 1961(F) s. 184 & Sch 6 para 1; 1973 s. 14 & Sch 8 para 37; 1989 Sch 8 paras 1 & 2(6)(a).
107	1936 ss. 36 & 291–294; 1973 s. 14; 1974 Sch 2 para 9; 1982(CJA) s. 38; 1989 Sch 8 paras 1 & 2(7).
108	1936 s. 34(2) & (4); 1973 s. 14; 1989 Sch 8 paras 1 & 2(6)(b).
109	1936 ss. 34(5) & 291–294; 1973 s. 14; 1974 Sch 2 para 8; 1982(CJA) s. 38; 1989 Sch 8 paras 1.
110	1989 s.70(3)–(5).
111	1936 ss. 27, 297 & 343(1)(part); 1974 Sch 2 para 7.
112	1936 s. 19; 1989 Sch 8 para 2(2).
113	1936 ss. 42, 90(1)(part) & 300–302; 1973 s. 14; 1974 s. 43(6); 1989 Sch 8 paras 1 & 5(1) (a).
114	1936 ss. 48 & 343(1)(part); 1973 Sch 8 para 39; 1989 Sch 8 para 1.

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115	1936 s. 21; 1973 s. 14; 1980(H) Sch 24 para 4(b); 1985(LG) Sch 4 para 47; 1989 Sch 8 paras 1 & 2(3).
116	1936 s. 22; 1973 s. 14; 1989 Sch 8 paras 1 & 2(4).
117	1936 ss. 30, 31, 90(5), 283 & 343(1); 1963(L) Sch 11 Pt I paras 1 & 24(b); 1973 s. 14; 1989 ss. 71(2) & (9), 72(7)(part) & Sch 8 para 1.
118	1937 ss. 1 & 2(5) & (5A); 1961 s. 69(1); 1973 s. 14; 1989 Sch 8 paras 1 & 3(1)(c); R: 2.
119	1937 s. 2(1); 1973 s. 14; 1989 Sch 8 paras 1 & 3(1)(a).
120	1989 Sch 9 paras. 1(1),(2), (4) & (5), 5 & 9.
121	1937 ss. 2(3), (5) & (5A) & 14(1); 1961 ss. 1(3) & 59; 1973 s. 14; 1989 Sch 8 paras 1 & 3(1)(b) & (c).
122	1937 s. 3; 1961 ss. 61 & 66(2); 1973 s. 14; 1989 Sch 8 paras 1 & 3(2) & (3).
123	1989 Sch 9 para 1(3)–(6).
124	1961 s. 60(1)–(4), (6) & (8); 1973 s. 14; 1989 Sch 8 para 1.
125	1974 s. 45(1)–(3); 1989 Sch 8 para 5(3).
126	1961 s. 60(5)–(7) & 66(2); 1973 s. 14; 1974 s. 45(4); 1989 Sch 8 paras 1 & 4(2) & (4) & 5(3) & (4).
127	1989 Sch 9 para 2.
128	1961 s 62; 1973 s. 14; 1989 Sch 8 paras 1 & 4(2).
129	1936 s. 90(5); 1937 ss. 7(1) & (2) & 14(2); 1973 s. 14; 1989 Sch 8 para 1; R: 2.
130	1989 Sch 9 para 1(1), (4) & (5) & 5.
131	1989 Sch 9 para 2.
132	1989 Sch 9 paras 3, 4(3) & 7.
133	1989 Sch 9 para 4 & 5.
134	1989 Sch 9 para 6.
135	1989 Sch 8 paras 3(4) & 4(3).
136	1961 s. 67(1).
137	1961 s. 66(1); 1981(SC) Sch 5.
138	1989 s. 74; 1990(EP) Sch 15 para 28.

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139	1961 s. 64; TFOs: SI 1965/319; SI 1970/1681.
140	Introduces Sch 8.
141	1936 s. 283; 1937 ss. 13 & 14(1); 1961 ss. 1(3) & 63(1); 1973 s. 14; 1989 Sch 8 paras 1 & 4(5) .
142	1989 s. 75.
143	1989 s. 76.
144	1989 s. 77 & Sch 26 para 16(10).
145	1989 s. 80.
146	1989 s. 79.
147	1989 s. 81.
148	1989 Sch 10 para 2(1)–(3) & (5) & 5.
149	1989 s. 78(2) & (3).
150	1989 s. 82.
151	1944 (c. 26) s. 1(1), (4) & (5); 1955 (c. 13) s. 1; 1971 (c. 49) s. 1; 1989 Sch 25 paras 6 & 21; TFOs: SI 1951/142; SI 1951/1900; SI 1965/319; SI 1970/1681.
152	1989 s. 170(7).
153	1989 s. 25.
154	1989 s. 184.
155	1989 s. 151.
156	1989 s. 152; 1990(EP) Sch 8 para 8 & Sch 9 para 17(4).
157	1989 ss. 158 & 186.
158	1989 Sch 19 paras 1(1) & 2(1)–(3), (7) & (8).
159	1989 Sch 19 paras 1(1) & 4.
160	1936 ss. 275 & 291–294; 1945 Sch 4; 1973 s. 14; 1989 Sch 8 para 1.
161	1989 s. 154 & Sch 19 paras 1(2), 2(1)(c) & (d) & 4(1)(c) & (d).
162	1989 Sch 10 paras 1(1)–(3), (5) & (7) & 5 & Sch 19 para 1(5).
163	1989 Sch 19 para 5.
164	1945 ss. 15, 53 & 59(1); 1963(L) Sch 11 Pt I para 27; 1972 (c. 61) s. 18(6); 1973 Sch 8 para 49; 1989 Sch 25 para 7(2).
165	1989 Sch 19 paras 1(1) & 8(1), (5) & (6).

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166	1989 s. 176 & Sch 19 para 9(1) & (3)–(8) & Sch 26 para 43(1).
167	1989 ss. 155 and 157(1).
168	1989 Sch 19, para 10(1)–(3).
169	1989 s. 156(1)–(5).
170	1945 ss. 16(5) & 21(2); 1948 s. 6; 1989 ss. 62(4) & 64(1)–(3) & (5) & Sch 25 para 7(3) (d) & (4); 1990(FS) s. 55(2).
171	1936 s. 287; 1937 s. 10; 1973 s. 14; 1974 Sch 3 para 10; 1989 Sch 8 paras 1, 2(9) & 3(7).
172	1961 s. 67(2); 1989 Sch 10 para 1(1) & (4).
173	1989 s. 180.
174	1945 s. 35(4); 1977 s. 31(6); 1989 s. 167 & Sch 25 para 7(5)(b).
175	1989 Sch 10 para 3(1) & (2).
176	1989 Sch 10 paras 3(3) & (4) & 5.
177	1989 Sch 10 paras 3(5) & (6) & 5.
178	1936 ss. 288 & 289; 1982(CJA) ss. 35 & 38.
179	1945 s. 35(2); 1989 s. 153, Sch 19 para 1(1) & Sch 25 para 7(5)(a).
180	Introduces Sch 12.
181	1989 s. 162(1)–(5), (10) & (11).
182	1989 s. 162(6)–(10).
183	Introduces Sch 13.
184	1936 s. 330 & 332; 1973 s. 14; 1982(CA) Sch 2 para 1(2); 1986(AA) Sch 2 para 2; 1989 Sch 8 para 1.
185	1989 s. 161.
186	1936 ss. 331, 332, 334 & 339; 1973 s. 14; 1989 s. 160(4)–(7) & (9) & Sch 8 para 1.
187	1936 s. 340; 1989 Sch 19 para 7; TFO: SI 1970/1537.
188	1989 s. 159.
189	1936 s. 276; 1973 s. 14; 1989 Sch 8 para 1.
190	1989 s. 163; 1990 (c. 11) Sch 2 para 81(2).
191	1989 s. 157(2)–(4).
192	1936 s. 328; 1989 Sch 19 paras 1(3), (4) & (6) & 11.
193	1989 s. 35.

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194	1989 s. 36.
195	1989 s. 31.
196	1937 s. 7A; 1989 Sch 8 para 3(5).
197	1989 Sch 19 para 9(2) & (8).
198	1989 s. 165.
199	1989 s. 166(1), (2), (3)(b) & (5)–(9).
200	1989 s. 166(3)(a), (4) & (8) & (9).
201	1989 s. 34.
202	1989 s. 32.
203	1989 s. 33.
204	1937 s. 9; 1973 s. 14; 1974 Sch 2 para 14; 1982(CJA) s. 38; 1989 Sch 8 para 1.
205	1989 Sch 10 paras 4 & 5.
206	1961 s. 68; 1989 s. 174 & Sch 9 para 8; R: 11.
207	1945 s. 45; 1989 s. 175 & Sch 25 para 7(8); R: 12.
208	1989 s. 170(1)–(6) & (9).
209	1981 s. 6; 1986(GA) Sch 7 para 2(6); 1989 Sch 25 para 63; 1989(EA) Sch 16 para 1(5); 1990 (c. 11) para 46; 1991(NR) Sch 8 para 106.
210	1989 s. 177; R: 13.
211	1936 s. 298; 1973 s. 14; 1989 Sch 8 para 1.
212	1989 s. 182.
213	1936 s. 319; 1946 (c. 36) ss. 4(3) and 5(2); 1974 s. 104; 1989 s. 185.
214	1936 ss. 283; 1937 s. 14(2); 1961 s. 1(3); 1973 s. 14; 1989 s. 189 (definition of “prescribed”) & Sch 8 paras 1, 3(7) & 4(6).
215	1936 s. 318; 1989 s. 181 & Sch 8 paras 1 & 2(10).
216	1989 s. 187; R: 14.
217	1989s. 188.
218	1989 s. 189(2) & (3); R: 21.
219	1936 ss. 90(4) & 343(1)(part); 1961 s. 67(3); 1989 ss. 43(8), 77(5), 78(4), 160(3), 166(9), 167(7) & 189 & Sch 8 para 2(12), Sch 10 para 6 & Sch 19 paras 1, 3(6), 8(8) & 11; 1991(NR) Sch 8 para 116(3); R: 15 & 17–20.

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220	1989 s. 191(6).
221	1936 s. 341; 1989 s. 192 & Sch 8 para 1; 1990 (c. 11) Sch 2 para 81(3).
222	1985 s. 5(2); 1989 s. 193 & Sch 25 para 73.
Sch 1	1989 Sch. 3 paras 1–5.
Sch 2	1989 Sch 5.
Sch 3	1989 Sch 6.
Sch 4	1989 Sch 4 paras 1–5.
Sch 5	1989 Sch 7.
Sch 6	
Pt I	1936 ss. 287 & 288; 1945 s. 48; 1961(F) s. 184 & Sch 6 para 1; 1973 s. 14; 1989 Sch 8 para 1.
Pt II	1989 ss. 59(3), 60(5), 62(5), 64(4) & (5), 156(6), 178 & 179, Sch 10 para 1(6), Sch 19 para 10(4) & (5) & Sch 21 para 5(4); 1991(NR) Sh 8 para 116(4).
Sch 7	1985 ss. 3 & 4.
Sch 8	1937 ss. 4(4) & 7(4) & (5); 1961 s. 63(8); 1973 s. 14; 1974 Sch 3 para 9; 1989 Sch 8 paras 1, 3(2) & (4), 4(2) & 5(2).
Sch 9	1989 Sch 18.
Sch 10	1989 Sch 24.
Sch 11	1989 Sch 20.
Sch 12	1936 ss. 278 & 303; 1973 s. 14; 1989 Sch 8 para 1, Sch 10, paras 1(2), 2(4) & 5 & Sch 19 paras 2(4)–(6), 6 & 8(2)–(4).
Sch 13	1936 ss. 333 & 334; 1973 s. 14; 1982(CA) Sch 2 para 1(2); 1986(AA) Sch 2 para 2; 1989 s. 160(1)–(3) & (6)–(8) & Sch 8 para 1, Sch 10 para 1(2) & Sch 19 para 2(9) & 3; 1989(EA) Sch 16 para 37; 1991(NR) Sch 8 para 116(4).
Sch 14	1989 Sch 21.
Sch 15	1989 s. 174(2)(d) & (3).

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**Status:**

Point in time view as at 01/03/2017.

**Changes to legislation:**

Water Industry Act 1991 is up to date with all changes known to be in force on or before 15 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.