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SCHEDULES

SCHEDULE 1 **E+W**

Section 1.

THE NATIONAL RIVERS AUTHORITY

Membership

- 1 (1) Subject to the following provisions of this paragraph, a member shall hold and vacate office in accordance with the terms of his appointment and shall, on ceasing to be a member, be eligible for re-appointment.
- (2) A member may at any time by notice to the appropriate Minister resign his office.
- (3) The appropriate Minister may remove a member if he is satisfied—
 - (a) that that member has been absent from meetings of the Authority for a period of more than three consecutive months without the permission of the Authority;
 - (b) that that member has been adjudged bankrupt, that his estate has been sequestrated or that he has made a composition or arrangement with, or granted a trust deed for, his creditors; or
 - (c) that that member is unable or unfit to carry out the functions of a member.

Remuneration, pensions etc.

- 2 (1) The Authority shall pay to its members such remuneration, and such travelling and other allowances, as may be determined by the appropriate Minister.
- (2) The Authority shall, if so required by the appropriate Minister—
 - (a) pay such pension, allowances or gratuities to or in respect of a person who has been or is a member; or
 - (b) make such payments towards provision for the payment of a pension, allowances or gratuities to or in respect of such a person,as may be determined by the appropriate Minister.
- (3) If, when any member ceases to hold office, the appropriate Minister determines that there are special circumstances which make it right that that member should receive compensation, the Authority shall pay to him a sum by way of compensation of such amount as may be so determined.
- (4) Without prejudice to the other provisions of this Schedule—
 - (a) the Authority may enter into a contract with any person under which, in consideration of payments made by the Authority by way of premium or otherwise, that person undertakes to pay to the Authority such sums as may be provided in the contract in the event of any member of the Authority or

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of any of its committees meeting with a personal accident, whether fatal or not, while he is engaged on the business of the Authority;

- (b) any sum received by the Authority under any such contract shall, after deduction of any expenses incurred in the recovery of that sum, be paid by the Authority to, or to the personal representatives of, the person in respect of whose accident the sum is received;

and the provisions of the ^{M1}Life Assurance Act 1774 shall not apply to any such contract.

- (5) The approval of the Treasury shall be required for the making of a determination under this paragraph.

Marginal Citations

M1 1774 c. 48.

Staff

- 3 (1) The Authority may, with the approval of the Secretary of State as to terms and conditions of service, appoint such officers and employees as it may determine.
- (2) No member or other person shall be appointed by the Authority to act as chief executive of the Authority unless the Secretary of State has consented to the appointment of that person.
- (3) The Authority may—
- (a) pay such pensions, allowances or gratuities to or in respect of any persons who have been or are its officers or employees as it may, with the approval of the Secretary of State, determine;
- (b) make such payments as it may so determine towards provision for the payment of pensions, allowances or gratuities to or in respect of any such persons;
- (c) provide and maintain such schemes as it may so determine (whether contributory or not) for the payment of pensions, allowances or gratuities to or in respect of any such persons.
- (4) Any reference in sub-paragraph (3) above to pensions, allowances or gratuities to or in respect of any such persons as are mentioned in that sub-paragraph includes a reference to pensions, allowances or gratuities by way of compensation to or in respect of any of the Authority's officers or employees who suffer loss of office or employment or loss or diminution of emoluments.
- (5) If any person—
- (a) on ceasing to be an officer or employee of the Authority, becomes a member; and
- (b) was by reference to his office or employment with the Authority a participant in a pension scheme maintained by the Authority for the benefit of any of its officers or employees,

the Authority may, with the approval of the Secretary of State, make provision for him to continue to participate in that scheme, on such terms and conditions as it may

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with the consent of the Secretary of State determine, as if his service as a member were service as an officer or employee of the Authority.

- (6) Provision made by virtue of sub-paragraph (5) above shall be without prejudice to paragraph 2 above.
- (7) The consent of the Treasury shall be required for the giving of an approval under this paragraph.

Proceedings of Authority

- 4 Subject to the following provisions of this Schedule and to section 106 of this Act, the Authority may regulate its own procedure (including quorum).

Delegation of powers

- 5 Subject to section 106 of this Act, anything authorised or required by or under any enactment to be done by the Authority may be done—
 - (a) by any member, officer or employee of the Authority who has been authorised for the purpose, whether generally or specially, by the Authority; or
 - (b) by any committee or sub-committee of the Authority which has been so authorised.

Interests of members

- 6 (1) A member who is in any way directly or indirectly interested in any matter that is brought up for consideration at a meeting of the Authority shall disclose the nature of his interest to the meeting; and, where such a disclosure is made—
 - (a) the disclosure shall be recorded in the minutes of the meeting; and
 - (b) the member shall not take any part in any deliberation or decision of the Authority, or of any of its committees or sub-committees, with respect to that matter.
- (2) For the purposes of sub-paragraph (1) above, a general notification given at a meeting of the Authority by a member to the effect that—
 - (a) he is a member of a specified company or firm; and
 - (b) is to be regarded as interested in any matter involving that company or firm,shall be regarded as a sufficient disclosure of his interest in relation to any such matter.
- (3) A member need not attend in person at a meeting of the Authority in order to make a disclosure which he is required to make under this paragraph if he takes reasonable steps to secure that the disclosure is made by a notice which is taken into consideration and read at the meeting.
- (4) The Secretary of State may, subject to such conditions as he considers appropriate, remove any disability imposed by virtue of this paragraph in any case where the number of members of the Authority disabled by virtue of this paragraph at any one

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time would be so great a proportion of the whole as to impede the transaction of business.

- (5) The power of the Secretary of State under sub-paragraph (4) above includes power to remove, either indefinitely or for any period, a disability which would otherwise attach to any member, or members of any description, by reason of such interests, and in respect of such matters, as may be specified or described by the Secretary of State.
- (6) Nothing in this paragraph precludes any member from taking part in the consideration or discussion of, or voting on, any question whether an application should be made to the Secretary of State for the exercise of the power conferred by sub-paragraph (4) above.
- (7) In this paragraph references to a meeting of the Authority include references to a meeting of any of its committees or sub-committees.

Vacancies and defective appointments

- 7 The validity of any proceedings of the Authority shall not be affected by a vacancy amongst the members or by a defect in the appointment of a member.

Minutes

- 8 (1) Minutes shall be kept of proceedings of the Authority, of its committees and of its sub-committees.
- (2) Minutes of any such proceedings shall be evidence of those proceedings if they are signed by a person purporting to have acted as chairman of the proceedings to which the minutes relate or of any subsequent proceedings in the course of which the minutes were approved as a correct record.
- (3) Where minutes of any such proceedings have been signed as mentioned in sub-paragraph (2) above, those proceedings shall, unless the contrary is shown, be deemed to have been regularly convened and constituted.

Application of seal and proof of instruments

- 9 (1) The application of the seal of the Authority shall be authenticated by the signature of any member, officer or employee of the Authority who has been authorised for the purpose, whether generally or specially, by the Authority.
- (2) In this paragraph the reference to the signature of a person includes a reference to a facsimile of a signature by whatever process reproduced; and, in paragraph 10 below, the word “signed” shall be construed accordingly.

Documents served etc. by or on the Authority

- 10 (1) Any document which the Authority is authorised or required by or under any enactment to serve, make or issue may be signed on behalf of the Authority by

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any member, officer or employee of the Authority who has been authorised for the purpose, whether generally or specially, by the Authority.

- (2) Every document purporting to be an instrument made or issued by or on behalf of the Authority and to be duly executed under the seal of the Authority, or to be signed or executed by a person authorised by the Authority for the purpose, shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.
- (3) Any notice which is required or authorised, by or under any enactment not contained in this Act, to be given, served or issued by or to the Authority shall be in writing.

Interpretation

11 In this Schedule—

“the appropriate Minister”, in relation to any person who is or has been a member, means the Minister or the Secretary of State, according to whether that person was appointed as a member by the Minister or the Secretary of State; and

“member” means any member of the Authority, including the chairman and the deputy chairman.

SCHEDULE 2 E+W

Section 2.

ORDERS AND AGREEMENTS FOR TRANSFER OF NAVIGATION, HARBOUR AND CONSERVANCY FUNCTIONS

Modifications etc. (not altering text)

- C1** Sch. 2: Functions transferred (1.4.1996) to the Agency by [1995 c. 25, s. 2\(1\)\(a\)\(vii\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)

Powers to transfer functions or property

- 1 (1) The Authority may at any time apply to the Ministers for an order under this Schedule transferring to the Authority any of the functions or property of a navigation authority, harbour authority or conservancy authority.
- (2) The power to make an order under this Schedule shall be exercisable by statutory instrument.
- (3) Any transfer of functions or property which could be effected by an order under this Schedule may, with the consent of the Ministers, be effected by agreement between the Authority and the other body concerned.
- (4) Where, in accordance with this paragraph, the Authority may apply for an order transferring any functions or property of another body, that body may itself apply for such an order.

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- (5) For the purposes of this Schedule the references in sub-paragraph (1) above to a navigation authority, to a harbour authority and to a conservancy authority shall each include a reference to a body which no longer has any members but which, if it had members, would be such an authority

Consultation with affected body

- 2 (1) Before determining whether to make an order on an application under paragraph 1 above, the Ministers shall—
- (a) consult whichever of the following is not the applicant, that is to say, the Authority and the body from which any functions or property are proposed in the application to be transferred; and
 - (b) consider any representations made with respect to the application by the Authority or, as the case may be, by any such body.
- (2) Sub-paragraph (1) above shall not require the Ministers to consult, or consider representations from, any body which no longer has any members.

Public consultation

- 3 (1) If the Ministers propose to make an order on an application under paragraph 1 above, they shall prepare a draft order, and shall cause notice of their intention to make an order—
- (a) to be published in the London Gazette and in such other manner as they think best adapted for informing persons affected; and
 - (b) to be served on—
 - (i) the Authority;
 - (ii) any body (other than one no longer having any members) from which any functions or property are proposed to be transferred; and
 - (iii) any such navigation authority, harbour authority or conservancy authority not falling within paragraph (ii) above as appears to the Ministers to be affected by the proposals.
- (2) A notice under sub-paragraph (1) above shall specify—
- (a) the place where copies of the draft order, and of any map to which it refers, may be inspected and obtained; and
 - (b) the time (not being less than twenty-eight days) within which, and the manner in which, objections to the draft order may be made.
- (3) Before making any order on an application under paragraph 1 above, the Ministers—
- (a) shall consider any objections which may be duly made to the draft order; and
 - (b) may, if they think fit, cause a local inquiry to be held with respect to any such objections;
- and, in making the order, the Ministers may make such modifications in the terms of the draft as appear to them desirable.

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Supplemental provisions of order

- 4 (1) An order under this Schedule may contain such incidental, supplementary, consequential and transitional provisions as the Ministers consider necessary or expedient.
- (2) Without prejudice to the generality of sub-paragraph (1) above, the provision that may be included in an order by virtue of that sub-paragraph shall include such provisions as the Ministers consider necessary or expedient with respect to—
- (a) the transfer of assets and liabilities, the payment of compensation and other financial adjustments;
 - (b) the amendment, adaptation or repeal of local enactments; and
 - (c) the application, subject to such modifications as may be specified in the order, of provisions corresponding to those originally made by or under Part IX of the ^{M2}Water Resources Act 1963.

Marginal Citations

M2 1963 c. 38.

Objection to final order by affected bodies

- 5 (1) After making an order under this Schedule, the Ministers, if an objection—
- (a) has been duly made by the Authority or any other body on which notice is required to be served under paragraph 3 above; and
 - (b) has not been withdrawn,
- shall serve notice of the making of the order and of the effect of the order on the Authority or, as the case may be, that body.
- (2) Where a notice is required to be served under sub-paragraph (1) above, the order shall not have effect before the end of a period of twenty-eight days from the date of service of that notice.
- (3) If, within the period of twenty-eight days mentioned in sub-paragraph (2) above, any body (including the Authority) on which notice has been served under sub-paragraph (1) above gives notice to one of the Ministers objecting to the order, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

Public notice of order

- 6 (1) After making an order under this Schedule, the Ministers shall publish in the London Gazette, and in such other manner as they think best adapted for informing persons affected, a notice—
- (a) stating that the order has been made; and
 - (b) naming a place where a copy of the order may be seen at all reasonable hours.
- (2) In the case of an order to which sub-paragraph (1) of paragraph 5 above applies, a notice under sub-paragraph (1) above—
- (a) shall not be published until the end of the period of twenty-eight days mentioned in sub-paragraph (2) of that paragraph; and

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- (b) shall state whether or not the order is to be subject to special parliamentary procedure.

Challenge of order

- 7 (1) Subject to sub-paragraph (3) below, if any person aggrieved by an order under this Schedule desires to question its validity on the ground—
- (a) that it is not within the powers of this Schedule; or
 - (b) that any requirement of this Schedule has not been complied with in relation to the order,
- he may, within six weeks after the first publication of the notice required by paragraph 6 above, make an application for the purpose to the High Court.
- (2) Where an application under sub-paragraph (1) above is duly made to the High Court, that Court, if satisfied—
- (a) that the order is not within the powers of this Schedule; or
 - (b) that the interests of the applicant have been substantially prejudiced by any requirements of this Schedule not having been complied with,
- may quash the order either generally or in so far as it affects the applicant.
- (3) The preceding provisions of this paragraph—
- (a) shall not apply to any order which is confirmed by Act of Parliament under section 6 of the ^{M3}Statutory Orders (Special Procedure) Act 1945; and
 - (b) shall have effect in relation to any other order which is subject to special parliamentary procedure by virtue of the provisions of this Schedule as if, for the reference to the first publication of the notice required by paragraph 6 above, there were substituted a reference to the date on which the order becomes operative under that Act of 1945.
- (4) Except as provided by this paragraph, the validity of an order under this Schedule shall not, either before or after the order has been made, be questioned in any legal proceedings whatsoever.

Marginal Citations

M3 1945 c. 18 (9 & 10 Geo 6).

Effect of order or agreement

- 8 (1) Where, by virtue of an order or agreement under this Schedule, property is transferred to the Authority on the terms that—
- (a) the body from which it is transferred shall continue liable for the repayment of, and payment of interest on, any sum borrowed in connection with the property; and
 - (b) the Authority shall make payments to that body in respect of amounts paid by that body by reason of its continuing so liable,
- any payment so made by the Authority shall be deemed to be a capital payment or an annual payment, according as the amount in respect of which it is made was paid in or towards repayment of the loan or by way of interest thereon.

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- (2) Property vested in the Authority by virtue of an order or agreement under this Schedule shall not be treated as so vested by way of sale for the purpose of section 12 of the ^{M4}Finance Act 1895 (which provides for charging stamp duty in the case of certain statutory transfers by way of sale).

Marginal Citations

M4 1895 c. 16.

Ministers' expenses

- 9 (1) The costs incurred by the Ministers in connection with the making and notification of an order under this Schedule shall be paid by the applicant for the order; and, if there is more than one, the Ministers may apportion the costs between the applicants.
- (2) The Ministers may require any applicant for an order under this Schedule to give security for the payment of any costs payable by the applicant under this paragraph.
- (3) The reference in sub-paragraph (1) above to any costs incurred in connection with the making and notification of an order under this Schedule includes a reference to any costs incurred in relation to any such order under the Statutory Orders (Special Procedure) Act 1945.

Compensation for officers and staff

- 10 (1) The Ministers shall by regulations make provision requiring the payment by the Authority, subject to such exceptions or conditions as may be prescribed, of compensation to or in respect of persons who—
- (a) are, or but for any military or other designated service of theirs would be, the holders of any such situation, place or employment as may be prescribed; and
- (b) suffer loss of employment, or loss or diminution of emoluments, in consequence of any order or agreement under this Schedule.
- (2) Regulations under this paragraph may be so framed as to have effect as from a date earlier than that on which they are made; but so much of any regulations as provides that any provision is to have effect as from a date earlier than that on which they are made shall not place any person other than the Authority in a worse position than he would have been in if the regulations had been so framed as to have effect only as from the date on which they are made.
- (3) Regulations made under this paragraph may include provision as to the manner in which, and the person to whom, any claim for compensation under this paragraph is to be made, and for the determination of all questions arising under the regulations.
- (4) In this paragraph “military or other designated service” means any such service in any of Her Majesty’s forces or other employment (whether or not in the service of Her Majesty) as may be prescribed by regulations under this paragraph.

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Power to amend local enactments

- 11 (1) If it appears to the Ministers by whom an order is made under this Schedule that any local enactment passed or made before the relevant date—
- (a) is inconsistent with any of the provisions of that order; or
 - (b) requires to be amended or adapted, having regard to any of the provisions of that order,
- those Ministers may by order repeal, amend or adapt that enactment to such extent, or in such manner, as they may consider appropriate.
- (2) Any order under this paragraph may include such transitional, incidental, supplementary and consequential provisions as the Ministers may consider necessary or expedient.
- (3) The power to make an order under this paragraph shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) In this paragraph “relevant date” means the date which was the second appointed day for the purposes of section 133 of the ^{M5}Water Resources Act 1963.
- (5) The provisions of this paragraph shall have effect without prejudice to the exercise of any other power to repeal, amend or adapt local enactments which is conferred by any other enactment.

Marginal Citations

M5 1963 c. 38.

Interpretation

- 12 (1) In this Schedule “local enactment” means—
- (a) a local or private Act;
 - (b) a public general Act relating to London;
 - (c) an order or scheme made under an Act, confirmed by Parliament or brought into operation in accordance with special parliamentary procedure; or
 - (d) an enactment in a public general Act amending a local or private Act or any such order or scheme.
- (2) References in this Schedule to the Ministers, in a case in which all the functions in question are exercisable in Wales and all the property in question is situated there, shall have effect as references to the Secretary of State.

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SCHEDULE 3 **E+W**

Section 9.

BOUNDARIES OF REGIONAL FLOOD DEFENCE AREAS

Power to make order

- 1
- (1) The relevant Minister may by order made by statutory instrument—
 - (a) alter the boundaries of the area of any regional flood defence committee; or
 - (b) provide for the amalgamation of any two or more such areas.
 - (2) Where an order under this Schedule makes provision by reference to anything shown on a main river map, that map shall be conclusive evidence for the purposes of the order of what is shown on the map.
 - (3) The power to make an order under this Schedule shall include power to make such supplemental, consequential and transitional provision as the relevant Minister considers appropriate.
 - (4) In the case of an order under this Schedule amalgamating the areas of any two or more regional flood defence committees, the provision made by virtue of sub-paragraph (3) above may include provision determining—
 - (a) the total number of members of the amalgamated committee; and
 - (b) the total number of such members to be appointed by the constituent councils of that committee;and subsections (6) and (7) of section 11 of this Act shall apply in relation to so much of an order under this Schedule as is made by virtue of this sub-paragraph as they apply in relation to an order under subsection (5) of that section.
 - (5) In this paragraph and the following paragraphs of this Schedule “the relevant Minister” —
 - (a) in relation to any alteration of the boundaries of an area where the whole or any part of that area is in Wales, means the Ministers;
 - (b) in relation to the amalgamation of any two or more areas where the whole or any part of any one of those areas is in Wales, means the Ministers; and
 - (c) in any other case, means the Minister.

Consultation and notice of intention to make order

- 2
- (1) Before making an order under this Schedule, the relevant Minister shall—
 - (a) consult such persons or representative bodies as he considers it appropriate to consult at that stage;
 - (b) prepare a draft order;
 - (c) publish a notice complying with sub-paragraph (2) below in the London Gazette and in such other manner as he considers appropriate for bringing the draft order to the attention of persons likely to be affected by it if it is made.
 - (2) A notice for the purposes of sub-paragraph (1)(c) above with respect to a draft order shall—
 - (a) state the relevant Minister’s intention to make the order and its general effect;

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- (b) specify the places where copies of the draft order and of any map to which it refers may be inspected by any person free of charge at all reasonable times during the period of twenty-eight days beginning with the date on which the notice is first published otherwise than in the London Gazette; and
 - (c) state that any person may within that period by notice in writing to the relevant Minister object to the making of the order.
- (3) The relevant Minister shall also cause copies of the notice and of the draft order to be served on every person carrying out functions under any enactment who appears to him to be concerned.

Objections to draft order and making of order

- 3 (1) Before making an order under this Schedule, the relevant Minister—
- (a) shall consider any representations or objections which are duly made with respect to the draft order and are not withdrawn; and
 - (b) may, if he thinks fit, cause a local inquiry to be held with respect to any such representations or objections.
- (2) Where notice of a draft order has been published and given in accordance with paragraph 2 above and any representations or objections considered under sub-paragraph (1) above, the relevant Minister may make the order either in the terms of the draft or in those terms as modified in such manner as he thinks fit, or may decide not to make the order.
- (3) The relevant Minister shall not make a modification of a draft order in so far as the modification is such as to include in the area of any regional flood defence committee any tidal waters which, if the order had been made in the form of the draft, would have been outside the area of every regional flood defence committee.

Procedure for making of order

- 4 (1) Where the relevant Minister makes an order under this Schedule, he shall serve notice of the making of the order on every person (if any) who—
- (a) is a person on whom notice is required to have been served under paragraph 2(3) above; and
 - (b) has duly made an objection to the making of the order that has not been withdrawn.
- (2) Where a notice is required to be served under sub-paragraph (1) above with respect to any order, the order shall not have effect before the end of a period of twenty-eight days from the date of service of the last notice served under that sub-paragraph.
- (3) If before an order takes effect under sub-paragraph (2) above—
- (a) any person who has been served with a notice under sub-paragraph (1) above with respect to that order serves notice objecting to the order on the Minister (or, in the case of an order made jointly by the Ministers, on either of them); and
 - (b) the objection is not withdrawn,
- the order shall be subject to special parliamentary procedure.

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- (4) A statutory instrument containing an order under this Schedule which is not subject to special parliamentary procedure under sub-paragraph (3) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Notice after making of order

- 5 (1) Subject to sub-paragraph (2) below, after making an order under this Schedule, the relevant Minister shall publish in the London Gazette, and in such other manner as he considers appropriate for bringing the order to the attention of persons likely to be affected by it, a notice—
- (a) stating that the order has been made; and
 - (b) naming the places where a copy of the order may be inspected at all reasonable times.
- (2) In the case of an order to which sub-paragraph (2) of paragraph 4 above applies, the notice—
- (a) shall not be published until the end of the period of twenty-eight days referred to in that sub-paragraph; and
 - (b) shall state whether or not the order is to be subject to special parliamentary procedure.

Questioning of order in courts

- 6 (1) Subject to sub-paragraph (3) below, if any person desires to question the validity of an order under this Schedule on the ground—
- (a) that it is not within the powers of this Schedule; or
 - (b) that any requirement of this Schedule has not been complied with,
- he may, within six weeks after the date of the first publication of the notice required by paragraph 5 above, make an application for the purpose to the High Court.
- (2) On an application under this paragraph the High Court, if satisfied—
- (a) that the order is not within the powers of this Schedule; or
 - (b) that the interests of the applicant have been substantially prejudiced by a failure to comply with any of the requirements of this Schedule,
- may quash the order either generally or in so far as it affects the applicant.
- (3) Sub-paragraph (1) above—
- (a) shall not apply to any order which is confirmed by Act of Parliament under section 6 of the ^{M6}Statutory Orders (Special Procedure) Act 1945; and
 - (b) shall have effect in relation to any other order which is subject to special parliamentary procedure by virtue of the provisions of this Schedule as if the reference to the date of the first publication of the notice required by paragraph 5 above were a reference to the date on which the order becomes operative under that Act of 1945.
- (4) Except as provided by this paragraph the validity of an order under this Schedule shall not, either before or after the order has been made, be questioned in any legal proceedings whatsoever.

Status: Point in time view as at 06/01/1994.

Changes to legislation: Water Resources Act 1991 is up to date with all changes known to be in force on or before 17 June 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)

Marginal Citations

M6 1945 c. 18. (9 & 10 Geo. 6)

SCHEDULE 4 E+W

Section 14.

MEMBERSHIP AND PROCEEDINGS OF REGIONAL AND LOCAL FLOOD DEFENCE COMMITTEES

Modifications etc. (not altering text)

C2 Sch. 4 excluded (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#)ss. 2(2), 4(2), Sch. 2 Pt. II para. 14(1)

PART I E+W

MEMBERSHIP OF FLOOD DEFENCE COMMITTEES

Terms of membership

- 1 (1) Members of a flood defence committee (that is to say a regional flood defence committee or a local flood defence committee), other than those appointed by or on behalf of one or more constituent councils, shall hold and vacate office in accordance with the terms of their appointment.
- (2) The first members of a local flood defence committee appointed by or on behalf of any one or more constituent councils—
 - (a) shall come into office on the day on which the committee comes into existence or, in the case of a member who is for any reason appointed after that day, on the day on which the appointment is made; and
 - (b) subject to the following provisions of this Schedule, shall hold office until the end of May in such year as may be specified for the purposes of this paragraph in the scheme establishing the committee.
- (3) Any members of a flood defence committee appointed by or on behalf of any one or more constituent councils who are not members to whom sub-paragraph (2) above applies—
 - (a) shall come into office at the beginning of the June next following the day on which they are appointed; and
 - (b) subject to the following provisions of this Schedule, shall hold office for a term of four years.
- (4) If for any reason any such member as is mentioned in sub-paragraph (3) above is appointed on or after the day on which he ought to have come into office, he shall—
 - (a) come into office on the day on which he is appointed; and

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- (b) subject to the following provisions of this Schedule, hold office for the remainder of the term.
- (5) References in this paragraph and the following provisions of this Schedule to a member of a flood defence committee include references to the chairman of such a committee.

Membership of constituent council as qualification for membership of committee

- 2 (1) Members of a flood defence committee appointed by or on behalf of any one or more constituent councils may be members of that council, or one of those councils, or other persons.
- (2) Any member of a flood defence committee appointed by or on behalf of a constituent council who at the time of his appointment was a member of that council shall, if he ceases to be a member of that council, also cease to be a member of the committee with whichever is the earlier of the following—
- (a) the end of the period of three months beginning with the date when he ceases to be a member of the council; and
- (b) the appointment of another person in his place.
- (3) For the purposes of sub-paragraph (2) above a member of a council shall not be deemed to have ceased to be a member of the council by reason of retirement if he has been re-elected a member of the council not later than the date of his retirement.

Disqualification for membership of committee

- 3 (1) Subject to the following provisions of this paragraph, a person shall be disqualified for appointment as a member of a flood defence committee if he—
- (a) is a paid officer of the Authority; or
- (b) is a person who has been adjudged bankrupt, or whose estate has been sequestrated or who has made a composition or arrangement with, or granted a trust deed for, his creditors; or
- (c) within the period of five years before the day of his appointment, has been convicted, in the United Kingdom, the Channel Islands or the Isle of Man, of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine; or
- (d) is disqualified for being elected or for being a member of a local authority under Part III of the ^{M7}Local Government Finance Act 1982 (accounts and audit) or Part III of the Representation of the ^{M8}People Act 1983 (legal proceedings).
- (2) Where a person is disqualified under sub-paragraph (1) above by reason of having been adjudged bankrupt, the disqualification shall cease—
- (a) unless the bankruptcy order made against that person is previously annulled, on his discharge from bankruptcy; and
- (b) if the bankruptcy order is so annulled, on the date of the annulment.

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- (3) Where a person is disqualified under sub-paragraph (1) above by reason of having had his estate sequestrated, the disqualification shall cease—
- (a) unless the sequestration is recalled or reduced, on the person's discharge under section 54 of the ^{M9}Bankruptcy (Scotland) Act 1985; and
 - (b) if the sequestration is recalled or reduced, on the date of the recall or reduction.
- (4) Where a person is disqualified under sub-paragraph (1) above by reason of his having made a composition or arrangement with, or having granted a trust deed for, his creditors, the disqualification shall cease—
- (a) if he pays his debts in full, on the date on which the payment is completed; and
 - (b) in any other case, at the end of five years from the date on which the terms of the deed of composition or arrangement, or of the trust deed, are fulfilled.
- (5) For the purposes of sub-paragraph (1)(c) above the date of the conviction shall be taken to be—
- (a) the ordinary date on which the period allowed for making an appeal or application with respect to the conviction expires; or
 - (b) if such an appeal or application is made, the date on which it is finally disposed of or abandoned or fails by reason of non-prosecution.
- (6) Section 92 of the ^{M10}Local Government Act 1972 (proceedings for disqualification) shall apply in relation to disqualification under this paragraph for appointment as a member of a flood defence committee as it applies in relation to disqualification for acting as a member of a local authority.

Modifications etc. (not altering text)

C3 Sch. 4, para. 3(2) excluded (01.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(2), 4(2), [Sch. 2 Pt. II paras. 13](#) and 14(2)

Marginal Citations

M7 1982 c. 32.
M8 1983 c. 2.
M9 1985 c. 66.
M10 1972 c. 70.

Vacation of office by disqualifying event

- 4 (1) The office of a member of a flood defence committee shall become vacant upon the fulfilment of any of the following conditions, that is to say—
- (a) the person holding that office is adjudged bankrupt, is a person whose estate is sequestrated or makes a composition or arrangement with, or grants a trust deed for, his creditors;
 - (b) that person is convicted, in the United Kingdom, the Channel Islands or the Isle of Man, of any offence and has passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine;

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- (c) that person is disqualified for being elected or for being a member of a local authority under Part III of the Local Government Finance Act 1982 (accounts and audit) or Part III of the Representation of the People Act 1983 (legal proceedings); or
 - (d) that person has, for a period of six consecutive months been absent from meetings of the committee, otherwise than by reason of illness or some other cause approved during the period by the committee.
- (2) For the purposes of sub-paragraph (1)(d) above, the attendance of a member of a flood defence committee—
- (a) at a meeting of any sub-committee of the committee of which he is a member; or
 - (b) at any joint committee to which he has been appointed by that committee,
- shall be treated as attendance at a meeting of the committee.

Resignation of office by members of regional committee

- 5 (1) The chairman of a regional flood defence committee may resign his office at any time by giving notice to the chairman of the Authority and to one of the Ministers.
- (2) Any other member of such a committee may resign his office at any time by giving notice to the chairman of the committee and also, if he was appointed by one of the Ministers, to that Minister.

Resignation of office by members of local committee

- 6 (1) The chairman of a local flood defence committee may resign his office at any time by giving notice to the chairman of the regional flood defence committee.
- (2) Any other member of a local flood defence committee may resign his office at any time by giving notice to the chairman of that local flood defence committee.

Appointments to fill casual vacancies

- 7 (1) Where, for any reason whatsoever, the office of a member of a flood defence committee becomes vacant before the end of his term of office, the vacancy—
- (a) shall, if the unexpired portion of the term of office of the vacating member is six months or more, be filled by the appointment of a new member; and
 - (b) may be so filled in any other case.
- (2) A person appointed by virtue of sub-paragraph (1) above to fill a casual vacancy shall hold office for so long only as the former member would have held office.

Eligibility of previous members for re-appointment

- 8 Subject to the provisions of this Schedule, a member of a flood defence committee shall be eligible for reappointment.

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Appointment of deputies

- 9 (1) Subject to the following provisions of this paragraph, a person nominated by one or more constituent councils may act as deputy for a member of a flood defence committee appointed by or on behalf of that council or those councils and may, accordingly, attend and vote at a meeting of the committee, instead of that member.
- (2) A person nominated under sub-paragraph (1) above as deputy for a member of a flood defence committee may, by virtue of that nomination, attend and vote at a meeting of a sub-committee of that committee which—
- (a) has been appointed by that committee under Part II of this Schedule; and
 - (b) is a committee to which the member for whom he is a deputy belongs.
- (3) A person acting as deputy for a member of a flood defence committee shall be treated for the purposes for which he is nominated as a member of that committee.
- (4) A person shall not act as deputy for a member of a flood defence committee unless his nomination has been notified to such officer of the Authority as is appointed to receive such nominations.
- (5) A nomination under this paragraph shall be in writing and may apply either to a particular meeting or to all meetings during a stated period or until the nomination is revoked.
- (6) A person shall not act as deputy for more than one member of a flood defence committee.
- (7) Nothing in this paragraph shall entitle a person to attend and vote at a meeting of a local flood defence committee by reason of his nomination as deputy of a member of a regional flood defence committee.

Payments to past and present chairmen and to members

- 10 (1) The Authority shall pay to any person who is a chairman of a flood defence committee such remuneration and allowances as may be determined by the relevant Minister with the consent of the Treasury.
- (2) If the relevant Minister so determines in the case of any person who is or has been chairman of a flood defence committee, the Authority shall pay or make arrangements for the payment of a pension in relation to that person in accordance with the determination.
- (3) If a person ceases to be chairman of a flood defence committee and it appears to the relevant Minister that there are special circumstances which make it right that that person should receive compensation in respect of his ceasing to be chairman, the relevant Minister may require the Authority to pay to that person a sum of such amount as that Minister may determine with the consent of the Treasury.
- (4) The Authority may pay to any person who is a member of a flood defence committee such allowances as may be determined by the relevant Minister with the consent of the Treasury.
- (5) In this paragraph—

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“pension”, in relation to any person, means a pension (whether contributory or not) of any kind payable to or in respect of him, and includes an allowance, gratuity or lump sum so payable and a return of contributions with or without interest or any other addition; and

“the relevant Minister”—

- (a) in relation to the regional flood defence committee for an area the whole or the greater part of which is in Wales and in relation to any local flood defence committee for any district comprised in the area of such a regional flood defence committee, means the Secretary of State; and
- (b) in relation to any other flood defence committee, means the Minister.

PART II E+W

PROCEEDINGS OF FLOOD DEFENCE COMMITTEES

Appointment of sub-committees, joint sub-committees etc.

- 11 (1) For the purpose of carrying out any functions in pursuance of arrangements under paragraph 12 below—
- (a) a flood defence committee may appoint a sub-committee of the committee;
 - (b) two or more regional or two or more local flood defence committees may appoint a joint sub-committee of those committees;
 - (c) any sub-committee may appoint one or more committees of that sub-committee (“under sub-committees”);
- (2) The number of members of any sub-committee and their terms of office shall be fixed by the appointing committee or committees or, in the case of an under sub-committee, by the appointing sub-committee.
- (3) A sub-committee appointed under this paragraph may include persons who are not members of the appointing committee or committees or, in the case of an under sub-committee, the committee or committees of whom they are an under sub-committee; but at least two thirds of the members appointed to any such sub-committee shall be members of that committee or those committees, as the case may be.
- (4) A person who is disqualified for being a member of a flood defence committee shall be disqualified also for being a member of a sub-committee or under sub-committee appointed under this paragraph.

Delegation of functions to sub-committees etc.

- 12 (1) Subject to section 106 of this Act and to any other express provision contained in any enactment, a flood defence committee may arrange for the carrying out of any of their functions—
- (a) by a sub-committee, or an under sub-committee of the committee or an officer of the Authority; or
 - (b) by any other regional or, as the case may be, local flood defence committee;

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and two or more regional or two or more local flood defence committees may arrange to carry out any of their functions jointly or may arrange for the carrying out of any of their functions by a joint sub-committee of theirs.

- (2) Where by virtue of this paragraph any functions of a flood defence committee or of two or more such committees may be carried out by a sub-committee, then, unless the committee or committees otherwise direct, the sub-committee may arrange for the carrying out of any of those functions by an under sub-committee or by an officer of the Authority.
- (3) Where by virtue of this paragraph any functions of a flood defence committee or of two or more such committees may be carried out by an under sub-committee, then, unless the committee or committees or the sub-committee otherwise direct, the under sub-committee may arrange for the carrying out of any of those functions by an officer of the Authority.
- (4) Any arrangements made by a flood defence committee under this paragraph for the carrying out of any function shall not prevent the committee from discharging their functions themselves.
- (5) References in the preceding provisions of this paragraph to the carrying out of any functions of a flood defence committee include references to the doing of anything which is calculated to facilitate, or is conducive or incidental to, the carrying out of any of those functions.
- (6) A regional flood defence committee shall not, under this paragraph, make arrangements for the carrying out in a local flood defence district of any functions which fall to be carried out there by the local flood defence committee.

Rules of procedure

- 13 (1) A flood defence committee may, with the approval of the relevant Minister, make rules for regulating the proceedings of the committee.
- (2) Nothing in section 105 or 106 of this Act shall entitle the Authority to make any arrangements or give any directions for regulating the proceedings of any flood defence committee.
- (3) In this paragraph “relevant Minister” has the same meaning as in paragraph 10 above.

Declarations of interest etc.

- 14 (1) Subject to the following provisions of this paragraph, the provisions of sections 94 to 98 of the ^{M11}Local Government Act 1972 (pecuniary interests of members of local authorities) shall apply in relation to members of a flood defence committee as those provisions apply in relation to members of local authorities.
- (2) In their application by virtue of this paragraph those provisions shall have effect in accordance with the following provisions—
 - (a) for references to meetings of the local authority there shall be substituted references to meetings of the committee;

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- (b) in section 94(4), for the reference to provision being made by standing orders of a local authority there shall be substituted a reference to provisions being made by directions of the committee;
 - (c) in section 96, for references to the proper officer of the local authority there shall be substituted a reference to an officer of the Authority appointed for the purposes of this paragraph; and
 - (d) section 97 shall apply as it applies to a local authority other than a parish or community council.
- (3) Subject to sub-paragraph (4) below, a member of a flood defence committee shall be disqualified, for so long as he remains such a member and for twelve months after he ceases to be such a member, for appointment to any paid office by the Authority or any regional flood defence committee.
- (4) Sub-paragraph (3) above shall not disqualify any person for appointment to the office of chairman of a local flood defence committee.

Marginal Citations

M11 1972 c. 70.

Authentication of documents

- 15 (1) Any notice or other document which a flood defence committee are required or authorised to give, make or issue by or under any enactment may be signed on behalf of the committee by any member of the committee or any officer of the Authority who is generally or specifically authorised for that purpose by a resolution of the committee.
- (2) Any document purporting to bear the signature of a person expressed to be authorised as mentioned in sub-paragraph (1) above shall be deemed, unless the contrary is shown, to be duly given, made or issued by authority of the committee.
- (3) In this paragraph “signature” includes a facsimile of a signature by whatever process reproduced.

Proof and validity of proceedings

- 16 (1) A minute of the proceedings of a meeting of a flood defence committee, purporting to be signed at that or the next ensuing meeting by—
- (a) the chairman of the meeting to the proceedings of which the minute relates;
 - or
 - (b) by the chairman of the next ensuing meeting,
- shall be evidence of the proceedings and shall be received in evidence without further proof.
- (2) Where a minute has been signed as mentioned in sub-paragraph (1) above in respect of a meeting of a committee or sub-committee, then, unless the contrary is shown—
- (a) the meeting shall be deemed to have been duly convened and held;

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- (b) all the proceedings had at any such meeting shall be deemed to have been duly had; and
 - (c) that committee or sub-committee shall be deemed to have been duly constituted and have had power to deal with the matters referred to in the minute.
- (3) The validity of any proceedings of a flood defence committee shall not be affected by any vacancy among the members of the committee or by any defect in the appointment of such a member.

SCHEDULE 5 E+W

Section 21.

PROCEDURE RELATING TO STATEMENTS ON MINIMUM ACCEPTABLE FLOW

Application of Schedule

- 1 (1) This Schedule applies in the case of any draft statement prepared under section 21 or 22 of this Act.
- (2) References in this Schedule, in relation to a statement for amending the provision for determining the minimum acceptable flow of any inland waters, to the inland waters to which the statement relates are references to the inland waters to which the proposed amendment relates.

Notice of proposed statement

- 2 (1) Before submitting the draft statement to the Secretary of State, the Authority shall publish a notice—
- (a) stating the general effect of the draft statement;
 - (b) specifying the place where a copy of the draft statement, 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 first publication of the notice; and
 - (c) stating that any person may within that period, by notice in writing to the Secretary of State, object to the approval of the statement.
- (2) A notice under this paragraph shall be published either—
- (a) at least once in each of two successive weeks, in one or more newspapers circulating in the locality in which the inland waters to which the draft statement relates are situated; or
 - (b) in any other manner which, in any particular case, may be certified by the Secretary of State to be expedient in that case.
- (3) Not later than the date on which the notice is first published in pursuance of subparagraph (2) above, the Authority shall serve a copy of the notice on—
- (a) every local authority or joint planning board whose area comprises any inland waters to which the draft statement relates;
 - (b) any water undertaker having the right to abstract water from any such inland waters;

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- (c) any other water undertaker which was consulted in relation to the draft statement in pursuance of section 21(3)(b) of this Act;
 - (d) the drainage board for any internal drainage district which comprises any such inland waters or from which water is discharged into any such inland waters;
 - (e) any navigation authority, harbour authority or conservancy authority having functions in relation to any such waters or any related inland waters;
 - (f) if any such waters or any related inland waters are tidal waters in relation to which there is no such navigation authority, harbour authority or conservancy authority, the Secretary of State for Transport;
 - (g) any person authorised by a licence under Part I of the ^{M12}Electricity Act 1989 to generate electricity; and
 - (h) every person who—
 - (i) has given notice to the Authority requesting it to notify him of action taken in connection with the determination of a minimum acceptable flow for any inland waters to which the draft statement relates; and
 - (ii) if the Authority have required him to pay a reasonable charge for being so notified, has paid that charge.
- (4) The Authority shall also publish a notice in the London Gazette—
- (a) stating that the draft statement has been submitted to the Secretary of State;
 - (b) naming the areas in respect of which a copy of a notice is required to be served under sub-paragraph (3)(a) above;
 - (c) specifying a place where a copy of the draft statement and of any relevant map or plan may be inspected; and
 - (d) where the notice required by sub-paragraph (1) above is published in a newspaper, giving the name of the newspaper and the date of an issue containing the notice.
- (5) In this paragraph “related inland waters” has the same meaning as for the purposes of subsection (3) of section 21 of this Act is given by subsection (8) of that section.

Marginal Citations

M12 1989 c. 29.

Duty to provide copy of draft statement

- 3 The Authority shall, at the request of any person, furnish him with a copy of the draft statement on payment of such charge as the Authority thinks reasonable.

Approval of draft statement

- 4 (1) The Secretary of State may approve the statement either in the form of the draft or in that form as altered in such manner as he thinks fit.
- (2) Where the Secretary of State—
- (a) proposes to make any alteration of a statement before approving it; and

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- (b) considers that any persons are likely to be adversely affected by it, the Authority shall give and publish such additional notices, in such manner, as the Secretary of State may require.
- (3) Sub-paragraph (4) below shall apply if, before the end of—
- (a) the period of twenty-eight days referred to in sub-paragraph (1) of paragraph 2 above;
 - (b) the period of twenty-five days from the publication in the London Gazette of the notice under sub-paragraph (4) of that paragraph; or
 - (c) any period specified in notices under sub-paragraph (2) above,
- notice of an objection is received by the Secretary of State from any person on whom a notice is required by this Schedule to be served, or from any other person appearing to the Secretary of State to be affected by the draft statement, either as prepared in draft or as proposed to be altered.
- (4) Where this sub-paragraph applies and the objection in question is not withdrawn, the Secretary of State, before approving the statement, shall either—
- (a) cause a local inquiry to be held; or
 - (b) afford to the objector and to the Authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (5) Where under this paragraph an objection is received by the Secretary of State from—
- (a) the drainage board for any internal drainage district which comprises any inland waters to which the draft statement relates or, as the case may be, from which water is discharged into any such inland waters; or
 - (b) such an association or person claiming to represent a substantial fishery interest affected by the statement as is certified by the Minister to appear to him to represent such an interest,
- sub-paragraphs (1) to (4) above and paragraph 5 below shall have effect as if references to the Secretary of State (except the first reference in sub-paragraph (3) above) were references to the Ministers.

Notice and inspection of approved statement

- 5 (1) Where a statement is approved under this Schedule, whether in the form of the draft proposed by the Authority or with alterations, the Secretary of State shall give notice to the Authority—
- (a) stating that the statement has been approved, either without alteration or with alterations specified in the notice; and
 - (b) specifying the date (not being earlier than twenty-eight days after the date of the notice under this paragraph) on which the statement shall have effect;
- and the Authority shall forthwith publish the notice.
- (2) The Authority shall keep a copy of every statement, as approved under this Schedule, available at its offices for inspection by the public, free of charge, at all reasonable times.

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SCHEDULE 6 **E+W**

Section 33.

ORDERS PROVIDING FOR EXEMPTION FROM RESTRICTION ON ABSTRACTION

Notice of draft order

- 1 (1) An application to the Secretary of State for an order under section 33 of this Act (“an exemption order”) shall be accompanied by a draft of the proposed order.
- (2) Before submitting a draft exemption order to the Secretary of State, the applicant authority shall publish a notice—
 - (a) stating the general effect of the draft order;
 - (b) specifying the 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 first publication of the notice; and
 - (c) stating that any person may within that period, by notice to the Secretary of State, object to the making of the order.
- (3) A notice under this paragraph shall be published either—
 - (a) at least once in each of two successive weeks, in one or more newspapers circulating in the locality in which the sources of supply to which the draft order relates are situated; or
 - (b) in any other manner which, in any particular case, may be certified by the Secretary of State to be expedient in that case.
- (4) Not later than the date on which the notice is first published in pursuance of subparagraph (2) above, the applicant authority shall serve a copy of the notice on—
 - (a) the Authority, if it is not the applicant;
 - (b) every local authority or joint planning board whose area comprises any source of supply to which the draft order relates;
 - (c) any water undertaker having the right to abstract water from any such source of supply;
 - (d) any other water undertaker having the right to abstract water from any related underground strata;
 - (e) the drainage board for any internal drainage district which comprises any such source of supply or from which water is discharged into any such source of supply;
 - (f) any navigation authority, harbour authority or conservancy authority having functions in relation to any such source of supply or any related inland waters;
 - (g) if any such source of supply or any related inland waters are tidal waters in relation to which there is no such navigation authority, harbour authority or conservancy authority, the Secretary of State for Transport; and
 - (h) any person authorised by a licence under Part I of the ^{M13}Electricity Act 1989 to generate electricity.
- (5) Where an application for an exemption order is made, the applicant authority shall also publish a notice in the London Gazette—

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- (a) stating that the draft exemption order has been submitted to the Secretary of State;
 - (b) naming the areas in respect of which a copy of a notice is required to be served under sub-paragraph (4)(b) above;
 - (c) specifying a place where a copy of the draft order and of any relevant map or plan may be inspected; and
 - (d) where the notice required by sub-paragraph (1) above is published in a newspaper, giving the name of the newspaper and the date of an issue containing the notice.
- (6) For the purposes of this paragraph—
- (a) underground strata are related underground strata in relation to any source of supply if—
 - (i) a water undertaker has a right to abstract water from the strata; and
 - (ii) it appears to the applicant authority, having regard to the extent to which the level of water in those strata depends on the flow of the waters in that source of supply, that the exercise of that right may be substantially affected by so much of the draft order in question as relates to that source of supply;
 - (b) inland waters are related inland waters in relation to any source of supply, where it appears to the applicant authority that changes in the flow of the waters of the source of supply may affect the flow of the waters in the inland waters in question.

Marginal Citations

M13 1989 c. 29.

Duty to provide copy of draft order

- 2 Where an application for an exemption order is made, the applicant authority shall, at the request of any person, furnish him with a copy of the draft exemption order on payment of such charge as the authority thinks reasonable.

Making of order

- 3 (1) Where an application for an exemption order is made, the Secretary of State may make the exemption order either in the form of the draft or in that form as altered in such manner as he thinks fit.
- (2) Where the Secretary of State—
- (a) proposes to make any alteration of an exemption order before making it; and
 - (b) considers that any persons are likely to be adversely affected by it,
- the applicant authority shall give and publish such additional notices, in such manner, as the Secretary of State may require.
- (3) Sub-paragraph (4) below shall apply if before the end of—
- (a) the period of twenty-eight days referred to in sub-paragraph (2) of paragraph 1 above;

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- (b) the period of twenty-five days from the publication in the London Gazette of the notice under sub-paragraph (5) of that paragraph; or
 - (c) any period specified in notices under sub-paragraph (2) above,
- notice of an objection is received by the Secretary of State from any person on whom a notice is required by this Schedule to be served, from any other person appearing to the Secretary of State to be affected by the exemption order (either as prepared in draft or as proposed to be altered) or, in the case of a draft order submitted under section 33(4) of this Act, from the Authority.
- (4) Where this sub-paragraph applies and the objection in question is not withdrawn, the Secretary of State, before making the order, shall either—
- (a) cause a local inquiry to be held; or
 - (b) afford to the objector and to the applicant authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (5) Where the exemption order (whether as prepared in draft or as proposed to be altered) relates to any tidal water in respect of which there is no relevant authority for the purposes of section 33 of this Act except the Authority, sub-paragraphs (1) to (4) above and paragraph 4 below shall have effect as if references to the Secretary of State (except the first reference in sub-paragraph (3) above) were references to the Secretary of State and the Secretary of State for Transport.

Notice and inspection of final order

- 4 (1) Where an exemption order is made under section 33 of this Act, whether in the form of the draft proposed by the applicant authority or with alterations, the Secretary of State shall give notice to the applicant authority and (if it is not the applicant authority) to the Authority—
- (a) stating that the exemption order has been made, either without alteration or with alterations specified in the notice; and
 - (b) specifying the date (not being earlier than twenty-eight days after the date of the notice under this paragraph) on which the order shall have effect;
- and the Authority shall forthwith publish the notice.
- (2) The Authority shall keep a copy of every order made under section 33 of this Act available at its offices for inspection by the public, free of charge, at all reasonable times.

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SCHEDULE 7 **E+W**

Sections 48, 55, 60, 61 and 65.

LICENCES OF RIGHT

Applications for licences of right under paragraph 30 or 31 of Schedule 26 to the Water Act 1989

- 1 (1) Paragraphs 30 and 31 of Schedule 26 to the ^{M14}Water Act 1989 shall continue to apply (notwithstanding the repeals made by the ^{M15}Water Consolidation (Consequential Provisions) Act 1991 but subject to the following provisions of this Schedule) in relation—
- (a) to any application made under either of those paragraphs which is outstanding immediately before the coming into force of this Act; and
 - (b) to any appeal against a determination made, on an application under either of those paragraphs, either before the coming into force of this Act or, thereafter, by virtue of paragraph (a) above;
- but for the purposes of any such application or appeal any reference in those paragraphs to a provision of the ^{M16}Water Resources Act 1963 which is re-enacted in this Act shall have effect, in relation to a time after the coming into force of this Act, as a reference to the corresponding provision of this Act.
- (2) Where an application for the grant of a licence by virtue of paragraph 30 or 31 of Schedule 26 to the Water Act 1989 has been made before the end of the period within which such an application was required to be made under that paragraph, then—
- (a) sections 24 and 48 of this Act and Part II of the ^{M17}Gas Act 1965 shall have effect, until the application is disposed of, as if the licence had been granted on the date of the application and the provisions of the licence had been in accordance with the proposals contained in the application; and
 - (b) for the purposes of those sections and Part II of the said Act of 1965 any licence granted on the application shall be treated as not having effect until the application has been disposed of.
- (3) For the purposes of this paragraph an application for the grant of a licence by virtue of paragraph 30 or 31 of Schedule 26 to the Water Act 1989 above shall be taken to be disposed of on (but not before) the occurrence of whichever of the following events last occurs, that is to say—
- (a) the grant, on the determination of the application by the Authority, of a licence the provisions of which are in accordance with the proposals contained in the application;
 - (b) the expiration, without a notice of appeal having been given, of the period (if any) within which the applicant is entitled to give notice of appeal against the decision on the application;
 - (c) the determination or withdrawal of an appeal against that decision;
 - (d) the grant, variation or revocation, in compliance with a direction given by the Secretary of State in consequence of such an appeal, of any licence;
- and in this sub-paragraph any reference to a decision includes a reference to a decision which is to be treated as having been made by virtue of any failure of the Authority to make a decision within a specified time.

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- (4) Subject to the other provisions of this Schedule, any licence granted by virtue of this paragraph shall have effect as a licence under Chapter II of Part II of this Act; and, so far as necessary for the purposes of this paragraph, anything done under or for the purposes of a provision of the ^{M18}Water Resources Act 1963 applied by paragraph 30 or 31 of Schedule 26 to the 1989 Act, shall have effect as if that paragraph applied the corresponding provision of this Act and that thing had been done under or for the purposes of that corresponding provision.

Marginal Citations

M14 1989 c. 15.

M15 1991 c. 60.

M16 1963 c. 38.

M17 1965 c. 36.

M18 1963 c. 38.

Section 48 of this Act

- 2 Subsection (2) of section 48 of this Act shall not afford any defence to an action brought before 1st September 1992 if the licence referred to in that subsection is a 1989 Act licence of right; and there shall be no defence afforded to such an action by that subsection as applied by paragraph 1(2) above.

Section 55 of this Act

- 3 No application shall be made under section 55 of this Act (variation of licence on application of owner of fishing rights) in respect of any 1989 Act licence of right.

Section 60 of this Act

- 4 (1) Where the plaintiff in any action brought against the Authority in pursuance of section 60 of this Act (liability of the Authority for derogation from protected right) is entitled to a protected right for the purposes of Chapter II of Part II of this Act by reason only that he is the holder of, or has applied for, a licence of right, it shall be a defence for the Authority to prove—
- (a) that the plaintiff could have carried out permissible alterations in the means whereby he abstracted water from the source of supply in question; and
 - (b) that, if he had carried out such alterations, the abstraction or, as the case may be, the obstruction or impeding of the flow of the inland waters authorised by the licence to which the action relates would not have derogated from his protected right for the purposes of that Chapter;
- and subsection (3) of that section (liability of Authority for compliance with direction requiring derogation from protected rights) shall not apply to a direction given in consequence of an appeal against the decision of the Authority on an application for the grant of a 1989 Act licence of right.
- (2) In this paragraph “permissible alterations”—
- (a) in relation to a person who is the holder of a licence of right, means any alteration of works, or modification of machinery or apparatus, which would

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fulfil the requirements of the licence as to the means whereby water is authorised to be abstracted;

- (b) in relation to a person who is not the holder of a licence of right, but to whose application for such a licence paragraph 1 above applies, means any alteration of works, or modification of machinery or apparatus, by means of which he abstracted water from the source of supply in question during the period of five years ending with 1st September 1989, being an alteration or modification which would be within the scope of the licence if granted in accordance with the application.

Section 61 of this Act

- 5 (1) No compensation shall be payable under section 61 of this Act (compensation for revocation or variation of a licence) in respect of the revocation or variation of a 1989 Act licence of right if the revocation or variation is for giving effect to the decision of the court in an action in respect of which paragraph 2 above has effect or in any proceedings in consequence of such an action.
- (2) Nothing in section 61(3) of this Act (compensation not payable in respect of works etc. carried out before the grant of a licence) shall apply in relation to any licence of right.

Licences of right

- 6 (1) In this Schedule references to a licence of right are references to—
- (a) any 1989 Act licence of right, that is to say, a licence granted (whether or not by virtue of paragraph 1 above) under paragraph 30 or 31 of Schedule 26 to the ^{M19}Water Act 1989; or
- (b) any licence which, having been granted in pursuance of an application under section 33 of the ^{M20}Water Resources Act 1963 (or in pursuance of an appeal consequential on such an application), has effect after the coming into force of this Act by virtue of sub-paragraph (2) below.
- (2) The repeal by the ^{M21}Water Consolidation (Consequential Provisions) Act 1991 of paragraph 29(4) of Schedule 26 to the Water Act 1989 shall not prevent any licence granted as mentioned in paragraph (b) of sub-paragraph (1) above from continuing (in accordance with paragraph 1 of Schedule 2 to that Act of 1991 and subject to the preceding provisions of this Schedule) to have effect after the coming into force of this Act as a licence under Chapter II of Part II of this Act.

Marginal Citations

M19 1989 c. 15.

M20 1963 c. 38.

M21 1991 c. 60.

Status: Point in time view as at 06/01/1994.

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SCHEDULE 8 **E+W**

Section 73.

PROCEEDINGS ON APPLICATIONS FOR DROUGHT ORDERS

- 1 (1) The applicant for a drought order shall—
- (a) cause notice of the application to be served on the persons specified in the Table set out in sub-paragraph (2) below;
 - (b) cause a notice of the application to be published in one or more local newspapers circulating within the area affected by the order; and
 - (c) cause a notice of the application to be published in the London Gazette.
- (2) The said Table is as follows—

TABLE

All orders	(a) The Authority (where it is not the applicant).(b) Every local authority (not being a county council) and water undertaker (not being the applicant) whose area would be affected by the order.
Orders which suspend or modify any enactment or any order or scheme made or confirmed under any enactment.	Such persons (if any) as are specified by name in the enactment, order or scheme as being persons for whose protection it was enacted or made.
Orders concerning the taking of water from a source or the discharge of water or effluent to a place.	(a) Every local authority (not being a county council) in whose area the source, or the place at which water or effluent is to be discharged, is situated.(b) Every drainage board for an internal district in which the source, or the place at which water or effluent is to be discharged, is situated.(c) Every navigation authority exercising functions over any watercourse affected by the order.(d) If the order concerns any consent relating to the discharge of sewage effluent or trade effluent, the person to whom the consent was given.
Orders which authorise the carrying out of any works.	(a) Every local authority (not being a county council) within whose area the works are situated.(b) If the order authorises the carrying out of works in, under or over a watercourse, every drainage board for an internal drainage district within which the works, or any part of the works, are situated.
Orders which authorise the occupation and use of land.	Every owner, lessee and occupier of the land.

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Orders which prohibit or limit the taking of water.

Every named person to whom the prohibition or limitation applies.

- (3) A notice for the purposes of this paragraph of an application for a drought order—
- (a) shall state the general effect of the application;
 - (b) shall specify a place within the area affected by the order where a copy of any relevant map or plan may be inspected by any person free of charge at all reasonable times within a period of seven days from the date on which it is served or, as the case may be, published;
 - (c) shall state that objections to the application may be made to the Secretary of State within seven days from the date on which it is served or, as the case may be, published; and
 - (d) in the case of an application for an order authorising the occupation and use of land, shall specify the land to which the application relates.
- (4) A notice sent in a letter in pursuance of section 220 of this Act to an address to which it may be sent in pursuance of that section shall not be treated as having been properly served for the purposes of this paragraph unless the sender takes such steps as are for the time being required to secure that the letter is transmitted in priority to letters of other descriptions.

Objections to and making of orders

- 2 (1) If any objection is duly made with respect to an application for a drought order and is not withdrawn, then, subject to the provisions of this paragraph, the Secretary of State shall, before making the order, either—
- (a) cause a local inquiry to be held; or
 - (b) afford an opportunity—
 - (i) to the objector; and
 - (ii) if the objector avails himself of the opportunity, to the applicant and to any other persons to whom it appears to the Secretary of State expedient to afford the opportunity,
 of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (2) Subject to sub-paragraph (3) below, where, on an application for a drought order, it appears to the Secretary of State that a drought order is required to be made urgently if it is to enable the deficiency of supplies of water to be effectively met, he may direct that the requirements of sub-paragraph (1) above shall be dispensed with in relation to the application.
- (3) Nothing in sub-paragraph (2) above shall authorise the Secretary of State to fail to consider any objection to a proposed drought order which has been duly made and not withdrawn.
- (4) Notwithstanding anything in sub-paragraph (1) above, the Secretary of State may—
- (a) require any person who has made an objection to a proposed drought order to state in writing the grounds of his objection; and
 - (b) disregard the objection for the purposes of this paragraph if the Secretary of State is satisfied—

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- (i) that the objection relates exclusively to matters which can be dealt with on a reference under Schedule 9 to this Act or by any person by whom compensation is to be assessed; or
 - (ii) in a case where the order is one confined to the extension of a period specified in a previous order, that the objection is one that has in substance been made with respect to the application for that previous order.
- (5) Subject to the requirements of this paragraph, the Secretary of State, upon being satisfied that the proper notices have been published and served, may, if he thinks fit, make the order in respect of which the application is made with or without modifications.
- (6) The Secretary of State may hold a local inquiry on any application for a drought order notwithstanding that he is not required to do so by this paragraph.

Notice after making of order

- 3 After a drought order has been made, the person on whose application it was made shall cause to be published (in the manner in which notice of the application was required under paragraph 1 above to be published) a notice—
- (a) stating that the order has been made; and
 - (b) naming a place where a copy of it may be inspected.

SCHEDULE 9 **E+W**

Section 79.

COMPENSATION IN RESPECT OF DROUGHT ORDERS

Compensation to be made in the case of all drought orders

- 1 Where a drought order has been made, compensation in respect of the entry upon or occupation or use of land shall be made by the applicant for the order to—
- (a) the owners and occupiers of the land; and
 - (b) all other persons interested in the land or injuriously affected by the entry upon, occupation or use of the land,
- for loss or damage sustained by reason of the entry upon, occupation or use of the land.

Compensation to be made in the case of ordinary orders only

- 2 (1) This paragraph shall apply for determining the compensation to be made, in addition to any made under paragraph 1 above, where an ordinary drought order has been made.
- (2) Compensation in respect of the taking of water from a source or its taking from a source otherwise than in accordance with a restriction or obligation which has been suspended or modified shall be made by the applicant for the order to—
- (a) the owners of the source of water; and
 - (b) all other persons interested in the source of water or injuriously affected by the taking of the water,

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for loss or damage sustained by reason of the taking of the water.

- (3) Compensation in respect of water's being discharged or not discharged to any place or its being discharged otherwise than in accordance with a restriction or obligation (whether relating to the treatment or discharge of the water) which has been suspended or modified shall be made by the applicant for the order to—
 - (a) the owners of the place of discharge; and
 - (b) all other persons interested in the place of discharge or injuriously affected by the discharge or lack of discharge,
 for loss or damage sustained by reason of the water being discharged or not discharged or being discharged otherwise than in accordance with the restriction or obligation.
- (4) Compensation in respect of the imposition of a prohibition or limitation on the taking of water from a source shall be made by the applicant for the order, to any persons to whom the prohibition or limitation applies, for loss or damage sustained by reason of the prohibition or limitation.
- (5) Compensation in respect of a power to make discharges of sewage effluent or trade effluent in pursuance of any consent shall be made by the applicant for the order, to any person who has been exercising that power, for loss or damage sustained by reason of the suspension or variation of the consent or the attachment of conditions to the consent.

Claims for compensation: general

- 3 (1) A claim for compensation under this Schedule shall be made by serving upon the applicant a notice stating the grounds of the claim and the amount claimed.
- (2) Any question as to the right of a claimant to recover compensation, or as to the amount of compensation recoverable, shall, in default of agreement, be referred to, and determined by, the Lands Tribunal.

Claims for compensation under paragraph 2

- 4 (1) A claim for compensation under paragraph 2 above may be made at any time not later than six months after the end of the period for which the order authorises, as the case may be—
 - (a) the taking or discharge of water;
 - (b) the imposition of a prohibition or limitation on the taking of water;
 - (c) the suspension or modification of any restriction or obligation; or
 - (d) the suspension or variation of, or attachment of conditions to, any consent relating to the discharge of sewage effluent or trade effluent.
- (2) Where a claim for compensation under paragraph 2 above is made during the continuance of the ordinary drought order, the Lands Tribunal may, if it thinks fit, award a sum representing the loss or damage which is likely to be sustained by the claimant in respect of each day on which, as the case may be—
 - (a) water is taken or discharged;
 - (b) water is not discharged or is discharged otherwise than in accordance with an obligation or restriction; or

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- (c) sewage effluent or trade effluent is discharged otherwise than in accordance with a consent originally given.
- (3) In assessing the compensation to be made under paragraph 2(2) above the Lands Tribunal may, if it thinks fit, have regard to the amount of water which, on an equitable apportionment of the water available from the source between the claimant, the applicant and other persons taking water from the source, may fairly be apportioned to the claimant.
- (4) In assessing the compensation to be made under paragraph 2(3) above in respect of the lack of discharge of compensation water, the Lands Tribunal may, if it thinks fit, have regard to the amount of water which, under the conditions existing by reason of the shortage of rain, would have been available to the claimant during the period during which the deficiency of supplies of water is continued, if the applicant in relation to whom the obligation was imposed had never carried on its undertaking.
- (5) In sub-paragraph (4) above “compensation water” has the same meaning as in section 77 of this Act.

SCHEDULE 10 **E+W**

Section 88.

DISCHARGE CONSENTS

VALID FROM 21/11/1996

^{F1}General review of consents

Textual Amendments

- F1** Sch. 10 substituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 183 (with ss. 7(6), 115, 117); S.I. 1996/2909, arts. 2, 3 (with art. 4)

- ^{F29} (1) If it appears appropriate to the Secretary of State to do so he may at any time direct the Agency to review—
- (a) the consents given under paragraph 3 or 6 above, or
- (b) any description of such consents,
- and the conditions (if any) to which those consents are subject.
- (2) A direction given by virtue of sub-paragraph (1) above—
- (a) shall specify the purpose for which, and
- (b) may specify the manner in which,
- the review is to be conducted.
- (3) After carrying out a review pursuant to a direction given by virtue of sub-paragraph (1) above, the Agency shall submit to the Secretary of State its proposals (if any) for—
- (a) the modification of the conditions of any consent reviewed pursuant to the direction, or

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(b) in the case of any unconditional consent reviewed pursuant to the direction, subjecting the consent to conditions.

(4) Where the Secretary of State has received any proposals from the Agency under sub-paragraph (3) above in relation to any consent he may, if it appears appropriate to him to do so, direct the Agency to do, in relation to that consent, anything mentioned in paragraph 7(2)(b) or (c) above.

(5) A direction given by virtue of sub-paragraph (4) above may only direct the Agency to do, in relation to any consent,—

- (a) any such thing as the Agency has proposed should be done in relation to that consent, or
- (b) any such thing with such modifications as appear to the Secretary of State to be appropriate.

Textual Amendments

F2 Sch. 10 substituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 183 (with ss. 7(6), 115, 117); S.I. 1996/2909, arts. 2, 3 (with art. 4)

VALID FROM 21/11/1996

^{F3}Applications for variation

Textual Amendments

F3 Sch. 10 substituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 183 (with ss. 7(6), 115, 117); S.I. 1996/2909, arts. 2, 3 (with art. 4)

^{F4}10 (1) The holder of a consent under paragraph 3 or 6 above may apply to the Agency, on a form provided for the purpose by the Agency, for the variation of the consent.

(2) The provisions of paragraphs 1 to 5 above shall apply (with the necessary modifications) to applications under sub-paragraph (1) above, and to the variation of consents in pursuance of such applications, as they apply to applications for, and the grant of, consents.

Textual Amendments

F4 Sch. 10 substituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 183 (with ss. 7(6), 115, 117); S.I. 1996/2909, arts. 2, 3 (with art. 4)

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VALID FROM 21/11/1996

F⁵Transfer of consents

Textual Amendments

F5 Sch. 10 substituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 183 (with ss. 7(6), 115, 117); S.I. 1996/2909, arts. 2, 3 (with art. 4)

- F611** (1) A consent under paragraph 3 or 6 above may be transferred by the holder to a person who proposes to carry on the discharges in place of the holder.
- (2) On the death of the holder of a consent under paragraph 3 or 6 above, the consent shall, subject to sub-paragraph (4) below, be regarded as property forming part of the deceased's personal estate, whether or not it would be so regarded apart from this sub-paragraph, and shall accordingly vest in his personal representatives.
- (3) If a bankruptcy order is made against the holder of a consent under paragraph 3 or 6 above, the consent shall, subject to sub-paragraph (4) below, be regarded for the purposes of any of the Second Group of Parts of the ^{M22}Insolvency Act 1986 (insolvency of individuals; bankruptcy), as property forming part of the bankrupt's estate, whether or not it would be so regarded apart from this sub-paragraph, and shall accordingly vest as such in the trustee in bankruptcy.
- (4) Notwithstanding anything in the foregoing provisions of this paragraph, a consent under paragraph 3 or 6 above (and the obligations arising out of, or incidental to, such a consent) shall not be capable of being disclaimed.
- (5) A consent under paragraph 3 or 6 above which is transferred to, or which vests in, a person under this section shall have effect on and after the date of the transfer or vesting as if it had been granted to that person under paragraph 3 or 6 above, subject to the same conditions as were attached to it immediately before that date.
- (6) Where a consent under paragraph 3 or 6 above is transferred under sub-paragraph (1) above, the person from whom it is transferred shall give notice of that fact to the Agency not later than the end of the period of twenty-one days beginning with the date of the transfer.
- (7) Where a consent under paragraph 3 or 6 above vests in any person as mentioned in sub-paragraph (2) or (3) above, that person shall give notice of that fact to the Agency not later than the end of the period of fifteen months beginning with the date of the vesting.
- (8) If—
- (a) a consent under paragraph 3 or 6 above vests in any person as mentioned in sub-paragraph (2) or (3) above, but
- (b) that person fails to give the notice required by sub-paragraph (7) above within the period there mentioned,
- the consent, to the extent that it permits the making of any discharges, shall cease to have effect.
- (9) A person who fails to give a notice which he is required by sub-paragraph (6) or (7) above to give shall be guilty of an offence and liable—

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- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

Textual Amendments

F6 Sch. 10 substituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 183 (with ss. 7(6), 115, 117); S.I. 1996/2909, arts. 2, 3 (with art. 4)

Modifications etc. (not altering text)

C4 Sch. 10 para. 11 applied (with modifications) (1.1.1999 for certain purposes otherwise 1.4.1999) by S.I. 1998/2746, reg. 14(4)

Marginal Citations

M22 1986 c. 45.

Applications for consents

- 1 (1) An application for a consent, for the purposes of section 88(1)(a) of this Act, for any discharges shall be made to the Authority.
- (2) An application under this paragraph shall be accompanied or supplemented by all such information as the Authority may reasonably require; but, subject to paragraph 2(4) below and without prejudice to the effect (if any) of any other contravention of the requirements of this Schedule in relation to such an application, a failure to provide information in pursuance of this sub-paragraph, shall not invalidate an application.
- (3) An application made in accordance with this paragraph which relates to proposed discharges at two or more places may be treated by the Authority as separate applications for consents for discharges at each of those places.
- (4) Where an application is made in accordance with this paragraph the Authority shall—
 - (a) publish notice of the application, at least once in each of two successive weeks, in a newspaper or newspapers circulating in—
 - (i) the locality or localities in which the places are situated at which it is proposed in the application that the discharges should be made; and
 - (ii) the locality or localities appearing to the Authority to be in the vicinity of any controlled waters which the Authority considers likely to be affected by the proposed discharges;
 - (b) publish a copy of that notice in an edition of the London Gazette published no earlier than the day after the publication of the last of the notices to be published by virtue of paragraph (a) above;
 - (c) send a copy of the application to every local authority or water undertaker within whose area any of the proposed discharges is to occur;
 - (d) in the case of an application which relates to proposed discharges into coastal waters, relevant territorial waters or waters outside the seaward limits of relevant territorial waters, serve a copy of the application on each of the Ministers.

Status: Point in time view as at 06/01/1994.

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- (5) The Authority shall be entitled, on an application made in accordance with this paragraph, to disregard the provisions of paragraphs (a) to (c) of sub-paragraph (4) above if it proposes to give the consent applied for and considers that the discharges in question will have no appreciable effect on the waters into which it is proposed that they should be made.
- (6) Where notice of an application under this paragraph is published by the Authority under sub-paragraph (4) above, the Authority shall be entitled to recover the expenses of publication from the applicant.
- (7) If a person who proposes to make or has made an application under this paragraph (“the relevant application”)—
- (a) applies to the Secretary of State within the prescribed period for a certificate providing that the provisions of sub-paragraph (4) above and subsection (1) of section 190 of this Act shall not apply to—
 - (i) the relevant application;
 - (ii) any consent given or conditions imposed on the relevant application;
 - (iii) any sample of effluent taken from a discharge for which consent is given on the relevant application; or
 - (iv) information produced by analysis of such a sample;
 - and
 - (b) satisfies the Secretary of State that it would be contrary to the public interest or would prejudice, to an unreasonable degree, some private interest, by disclosing information about a trade secret, if a certificate were not issued under this sub-paragraph,
- the Secretary of State may issue a certificate to that person providing that those provisions shall not apply to such of the things mentioned in paragraph (a) above as are specified in the certificate.

Consideration and determination of applications

- 2 (1) It shall be the duty of the Authority to consider any written representations or objections with respect to an application under paragraph 1 above which are made to it in the period of six weeks beginning with the day of the publication of notice of the application in the London Gazette and are not withdrawn.
- (2) On an application under paragraph 1 above the Authority shall be under a duty, if the requirements of that paragraph are complied with, to consider whether to give the consent applied for, either unconditionally or subject to conditions, or to refuse it.
- (3) Subject to sub-paragraph (4) and paragraph 3(5) below, on an application made in accordance with paragraph 1 above, the consent applied for shall be deemed to have been refused if it is not given within the period of four months beginning with the day on which the application is received or within such longer period as may be agreed in writing between the Authority and the applicant.
- (4) Where—
- (a) any person, having made an application to the Authority for a consent, has failed to comply with his obligation under paragraph 1(2) above to supplement that application with information required by the Authority; and

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- (b) that requirement was made by the Authority at such a time before the end of the period within which the Authority is required to determine the application as gave that person a reasonable opportunity to provide the required information within that period,

the Authority may delay its determination of the application until a reasonable time after the required information is provided.

- (5) The conditions subject to which a consent may be given under this paragraph shall be such conditions as the Authority may think fit and, in particular, may include conditions—

- (a) as to the places at which the discharges to which the consent relates may be made and as to the design and construction of any outlets for the discharges;
- (b) as to the nature, origin, composition, temperature, volume and rate of the discharges and as to the periods during which the discharges may be made;
- (c) as to the steps to be taken, in relation to the discharges or by way of subjecting any substance likely to affect the description of matter discharged to treatment or any other process, for minimising the polluting effects of the discharges on any controlled waters;
- (d) as to the provision of facilities for taking samples of the matter discharged and, in particular, as to the provision, maintenance and use of manholes, inspection chambers, observation wells and boreholes in connection with the discharges;
- (e) as to the provision, maintenance and testing of meters for measuring or recording the volume and rate of the discharges and apparatus for determining the nature, composition and temperature of the discharges;
- (f) as to the keeping of records of the nature, origin, composition, temperature, volume and rate of the discharges and, in particular, of records of readings of meters and other recording apparatus provided in accordance with any other condition attached to the consent; and
- (g) as to the making of returns and the giving of other information to the Authority about the nature, origin, composition, temperature, volume and rate of the discharges;

and it is hereby declared that a consent may be given under this paragraph subject to different conditions in respect of different periods.

- (6) A consent for any discharges which is given under this paragraph is not limited to discharges by a particular person and, accordingly, extends to discharges which are made by any person.

Notification of proposal to give consent

- 3 (1) This paragraph applies where the Authority proposes to give its consent under paragraph 2 above on an application in respect of which such representations or objections as the Authority is required to consider under sub-paragraph (1) of that paragraph have been made.
- (2) It shall be the duty of the Authority to serve notice of the proposal on every person who made any such representations or objection; and any such notice shall include a statement of the effect of sub-paragraph (3) below.

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- (3) Any person who made any such representations or objection may, within the period of twenty-one days beginning with the day on which the notice of the proposal is served on him, in the prescribed manner request the Secretary of State to give a direction under paragraph 4(1) below in respect of the application.
- (4) It shall be the duty of the Authority not to give its consent on the application before the end of the period of twenty-one days mentioned in sub-paragraph (3) above and, if within that period—
 - (a) a request is made under sub-paragraph (3) above in respect of the application; and
 - (b) the person who makes that request serves notice of it on the Authority,the Authority shall not give its consent on the application unless the Secretary of State has served notice on the Authority stating that he declines to comply with the request.
- (5) Any period during which the Authority is prohibited by virtue of sub-paragraph (4) above from giving its consent on the application shall be disregarded in determining whether the application is deemed to have been refused under paragraph 2(3) above.

Reference to Secretary of State of certain applications for consent

- 4 (1) The Secretary of State may, either in consequence of representations or objections made to him or otherwise, direct the Authority to transmit to him for determination such applications for consent under paragraph 1 above as are specified in the direction or are of a description so specified.
- (2) Where a direction is given to the Authority under this paragraph, the Authority shall comply with the direction and inform every applicant to whose application the direction relates of the transmission of his application to the Secretary of State.
- (3) Paragraphs 1(4) to (6) and 2(1) above shall have effect in relation to an application transmitted to the Secretary of State under this paragraph with such modifications as may be prescribed.
- (4) Where an application is transmitted to the Secretary of State under this paragraph, the Secretary of State may at any time after the application is transmitted and before it is granted or refused—
 - (a) cause a local inquiry to be held with respect to the application; or
 - (b) afford the applicant and the Authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (5) The Secretary of State shall exercise his power under sub-paragraph (4) above in any case where a request to be heard with respect to the application is made to him in the prescribed manner by the applicant or by the Authority.
- (6) Where under this paragraph the Secretary of State affords to an applicant and the Authority an opportunity of appearing before, and being heard by, a person appointed for the purpose, it shall be the duty of the Secretary of State to afford an opportunity of appearing before, and being heard by, that person to every person who has made any representations or objection to the Secretary of State with respect to the application in question.

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- (7) It shall be the duty of the Secretary of State, if the requirements of this paragraph and of any regulations made under it are complied with, to determine an application for consent transmitted to him by the Authority under this paragraph by directing the Authority to refuse its consent or to give its consent under paragraph 2 above (either unconditionally or subject to such conditions as are specified in the direction).
- (8) In complying with a direction under sub-paragraph (7) above to give a consent the Authority shall not be required to comply with any requirement imposed by paragraph 3 above.
- (9) Without prejudice to any of the preceding provisions of this paragraph, the Secretary of State may by regulations make provision for the purposes of, and in connection with, the consideration and disposal by him of applications transmitted to him under this paragraph.

Consents without applications

- 5 (1) If it appears to the Authority—
 - (a) that a person has caused or permitted effluent or other matter to be discharged in contravention—
 - (i) of the obligation imposed by virtue of section 85(3) of this Act; or
 - (ii) of any prohibition imposed under section 86 of this Act;
 and
 - (b) that a similar contravention by that person is likely,
 the Authority may, if it thinks fit, serve on him an instrument in writing giving its consent, subject to any conditions specified in the instrument, for discharges of a description so specified.
- (2) A consent given under this paragraph shall not relate to any discharge which occurred before the instrument containing the consent was served on the recipient of the instrument.
- (3) Sub-paragraphs (5) and (6) of paragraph 2 above shall have effect in relation to a consent given under this paragraph as they have effect in relation to a consent given under that paragraph.
- (4) Where a consent has been given under this paragraph, the Authority shall, as soon as practicable after giving it—
 - (a) publish notice of the consent, at least once in each of two successive weeks, in a newspaper or newspapers circulating in—
 - (i) the locality or localities in which the places are situated at which discharges may be made in pursuance of the consent; and
 - (ii) the locality or localities appearing to the Authority to be in the vicinity of any controlled waters which it considers likely to be affected by the discharges;
 - (b) publish a copy of that notice in an edition of the London Gazette published no earlier than the day after the publication of the last of the notices to be published by virtue of paragraph (a) above;
 - (c) send a copy of the instrument containing the consent to every local authority within whose area any of the discharges authorised by the consent may occur;

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- (d) in the case of a consent which relates to discharges into coastal waters, relevant territorial waters or waters outside the seaward limits of relevant territorial waters, serve a copy of the instrument containing the consent on each of the Ministers.
- (5) It shall be the duty of the Authority to consider any written representations or objections with respect to a consent under this paragraph which are made to it in the period of six weeks beginning with the day of the publication of notice of the consent in the London Gazette and are not withdrawn.
- (6) Where notice of a consent is published by the Authority under sub-paragraph (4) above, the Authority shall be entitled to recover the expenses of publication from the person on whom the instrument containing the consent was served.

Revocation of consents and alteration and imposition of conditions

- 6 (1) It shall be the duty of the Authority to review from time to time the consents given under paragraphs 2 and 5 above and the conditions (if any) to which the consents are subject.
- (2) Subject to such restrictions on the exercise of the power conferred by this sub-paragraph as are imposed under paragraph 7 below, where the Authority has reviewed a consent under this paragraph, it may by a notice served on the person making a discharge in pursuance of the consent—
- (a) revoke the consent;
 - (b) make modifications of the conditions of the consent; or
 - (c) in the case of an unconditional consent, provide that it shall be subject to such conditions as may be specified in the notice.
- (3) If on a review under sub-paragraph (1) above it appears to the Authority that no discharge has been made in pursuance of the consent to which the review relates at any time during the preceding twelve months, the Authority may revoke the consent by a notice served on the owner or occupier of the land from which discharges would be made in pursuance of the consent.
- (4) If it appears to the Secretary of State appropriate to do so—
- (a) for the purpose of enabling Her Majesty's Government in the United Kingdom to give effect to any Community obligation or to any international agreement to which the United Kingdom is for the time being a party;
 - (b) for the protection of public health or of flora and fauna dependent on an aquatic environment; or
 - (c) in consequence of any representations or objections made to him or otherwise,
- he may, subject to such restrictions on the exercise of the power conferred by virtue of paragraph (c) above as are imposed under paragraph 7 below, at any time direct the Authority, in relation to a consent given under paragraph 2 or 5 above, to do anything mentioned in sub-paragraph (2)(a) to (c) above.
- (5) The Authority shall be liable to pay compensation to any person in respect of any loss or damage sustained by that person as a result of the Authority's compliance with a direction given in relation to any consent by virtue of sub-paragraph (4)(b) above if—

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- (a) in complying with that direction the Authority does anything which, apart from that direction, it would be precluded from doing by a restriction imposed under paragraph 7 below; and
 - (b) the direction is not shown to have been given in consequence of—
 - (i) a change of circumstances which could not reasonably have been foreseen at the beginning of the period to which the restriction relates; or
 - (ii) consideration by the Secretary of State of material information which was not reasonably available to the Authority at the beginning of that period.
- (6) For the purposes of sub-paragraph (5) above information is material, in relation to a consent, if it relates to any discharge made or to be made by virtue of the consent, to the interaction of any such discharge with any other discharge or to the combined effect of the matter discharged and any other matter.

Restriction on variation and revocation of consent and previous variation

- 7
- (1) Each instrument signifying the consent of the Authority under paragraph 2 or 5 above shall specify a period during which no notice by virtue of paragraph 6(2) or (4)(c) above shall be served in respect of the consent.
 - (2) Each notice served by the Authority by virtue of paragraph 6(2) or (4)(c) above (except a notice which only revokes a consent) shall specify a period during which a subsequent such notice which alters the effect of the first-mentioned notice shall not be served.
 - (3) The period specified under sub-paragraph (1) or (2) above in relation to any consent shall not, unless the person who proposes to make or makes discharges in pursuance of the consent otherwise agrees, be less than the period of two years beginning—
 - (a) in the case of a period specified under sub-paragraph (1) above, with the day on which the consent takes effect; and
 - (b) in the case of a period specified under sub-paragraph (2) above, with the day on which the notice specifying that period is served.
 - (4) A restriction imposed under sub-paragraph (1) or (2) above shall not prevent the service by the Authority of a notice by virtue of paragraph 6(2) or (4)(c) above in respect of a consent given under paragraph 5 above if—
 - (a) the notice is served not more than three months after the beginning of the period specified in paragraph 5(5) above for the making of representations and objections with respect to the consent; and
 - (b) the Authority or, as the case may be, the Secretary of State considers, in consequence of any representations or objections received by it or him within that period, that it is appropriate for the notice to be served.

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VALID FROM 21/09/1995

[^{F7} General review of consents]

Textual Amendments

F7 Sch. 10 para. 8 and cross-heading added (21.9.1995) by 1995 c. 25, s. 120(1), Sch. 22 para. 182 (with ss. 7(6), 115, 117); S.I. 1995/1983, art. 3

- [^{F8}** (1) If it appears appropriate to the Secretary of State to do so he may at any time direct the Authority to review—
- (a) the consents given under paragraphs 2 and 5 above, or
 - (b) any description of such consents,
- and the conditions (if any) to which those consents are subject.
- (2) A direction given by virtue of sub-paragraph (1) above—
- (a) shall specify the purpose for which, and
 - (b) may specify the manner in which,
- the review is to be conducted.
- (3) After carrying out a review pursuant to a direction given by virtue of sub-paragraph (1) above, the Authority shall submit to the Secretary of State its proposals (if any) for—
- (a) the modification of the conditions of any consent reviewed pursuant to the direction, or
 - (b) in the case of any unconditional consent reviewed pursuant to the direction, subjecting the consent to conditions.
- (4) Where the Secretary of State has received any proposals from the Authority under sub-paragraph (3) above in relation to any consent he may, if it appears appropriate to him to do so, direct the Authority to do, in relation to that consent, anything mentioned in paragraph 6(2)(b) or (c) above.
- (5) A direction given by virtue of sub-paragraph (4) above may only direct the Authority to do, in relation to any consent,—
- (a) any such thing as the Authority has proposed should be done in relation to that consent, or
 - (b) any such thing with such modifications as appear to the Secretary of State to be appropriate.]

Textual Amendments

F8 Sch. 10 para. 8 added (21.9.1995) by 1995 c. 25, s. 120(1), Sch. 22 para. 182 (with ss. 7(6), 115, 117); S.I. 1995/1983, art. 3

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SCHEDULE 11 E+W

Section 93.

WATER PROTECTION ZONE ORDERS

Application for consent

- 1 (1) Where the Authority applies to the Secretary of State for an order under section 93 of this Act, 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 the locality proposed to be designated as a water protection zone by the order;
 - (c) not later than the date on which that notice is first published serve a copy of the notice on every local authority and water undertaker whose area includes the whole or any part of that locality; 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 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.

Supply of copies of draft orders

- 2 Where the Authority has applied for an order under section 93 of this Act, it shall, at the request of any person and on payment by that person of such charge (if any) as the Authority 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 93 of this Act, the Secretary of State may make the order either in the terms of the draft order submitted to him or, subject

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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 Authority has given and published such additional notices, in such manner, as the Secretary of State may have required.
- (3) Subject to sub-paragraph (2) above and to the service of notices of the proposed modification on such local authorities as appear to him to be likely to be interested in it, the modifications that may be made by the Secretary of State of any draft order include any modification of the area designated by the draft order as a water protection zone.

Consideration of objections etc.

- 4 Without prejudice to section 213 of this Act, where an application for an order under section 93 of this Act 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.

SCHEDULE 12 **E+W**

Section 94.

NITRATE SENSITIVE AREA ORDERS

PART I **E+W**

APPLICATIONS BY THE AUTHORITY FOR DESIGNATIONS ORDERS

Orders made only on application

- 1 (1) Subject to sub-paragraphs (2) and (3) below, the relevant Minister shall not make an order under section 94 of this Act by virtue of which any land is designated as land comprised in a nitrate sensitive area, except with the consent of the Treasury and on an application which—
 - (a) has been made by the Authority in accordance with paragraph 2 below; and
 - (b) in identifying controlled waters by virtue of sub-paragraph (2)(a) of that paragraph, identified the controlled waters with respect to which that land is so comprised by the order.
- (2) This paragraph shall not apply to an order which reproduces or amends an existing order without adding any land appearing to the relevant Minister to constitute a significant area to the land already comprised in the areas for the time being designated as nitrate sensitive areas.

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Procedure for applications

- 2 (1) The Authority shall not for the purposes of paragraph 1 above apply for the making of any order under section 94 of this Act by which any land would be comprised in the areas for the time being designated as nitrate sensitive areas unless it appears to the Authority—
- (a) that pollution is or is likely to be caused by the entry of nitrate into controlled waters as a result of, or of anything done in connection with, the use of particular land in England and Wales for agricultural purposes; and
 - (b) that the provisions for the time being in force in relation to those waters and that land are not sufficient, in the opinion of the Authority, for preventing or controlling such an entry of nitrate into those waters.
- (2) An application under this paragraph shall identify—
- (a) the controlled waters appearing to the Authority to be the waters which the nitrate is or is likely to enter; and
 - (b) the land appearing to the Authority to be the land the use of which for agricultural purposes, or the doing of anything in connection with whose use for agricultural purposes, is resulting or is likely to result in the entry of nitrate into those waters.
- (3) An application under this paragraph shall be made—
- (a) where the land identified in the application is wholly in Wales, by serving a notice containing the application on the Secretary of State; and
 - (b) in any other case, by serving such a notice on each of the Ministers.

PART II E+W

ORDERS CONTAINING MANDATORY PROVISIONS

Publication of proposal for order containing mandatory provisions

- 3 (1) This paragraph applies where the relevant Minister proposes to make an order under section 94 of this Act which—
- (a) makes or modifies any such provision as is authorised by subsection (3)(a) of that section; and
 - (b) in doing so, contains provision which is not of one of the following descriptions, that is to say—
 - (i) provision reproducing existing provisions without modification and in relation to substantially the same area; and
 - (ii) provision modifying any existing provisions so as to make them less onerous.
- (2) The relevant Minister shall, before making any such order as is mentioned in subparagraph (1) above—
- (a) publish a notice with respect to the proposed order, at least once in each of two successive weeks, in one or more newspapers circulating in the locality in relation to which the proposed order will have effect;

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- (b) not later than the date on which that notice is first published, serve a copy of the notice on—
 - (i) the Authority;
 - (ii) every local authority and water undertaker whose area includes the whole or any part of that locality; and
 - (iii) in the case of an order containing any such provision as is authorised by section 94(3)(b) of this Act, such owners and occupiers of agricultural land in that locality as appear to the relevant Minister to be likely to be affected by the obligations in respect of which payments are to be made under that provision;and
 - (c) publish a notice in the London Gazette which—
 - (i) names every local authority on whom a notice is required to be served under this paragraph;
 - (ii) specifies a place where a copy of the proposed order and of any relevant map or plan may be inspected; and
 - (iii) gives the name of every newspaper in which the notice required by virtue of paragraph (a) above was published and the date of an issue containing the notice.
- (3) The notice required by virtue of sub-paragraph (2)(a) above to be published with respect to any proposed order shall—
- (a) state the general effect of the proposed order;
 - (b) specify a place where a copy of the proposed 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 forty-two 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 or, as the case may be, to one of the Ministers object to the making of the order.

Supply of copies of proposed orders

- 4 The Secretary of State and, in a case where he is proposing to join in making the order, the Minister shall, at the request of any person and on payment by that person of such charge (if any) as the Secretary of State or the Minister may reasonably require, furnish that person with a copy of any proposed order of which notice has been published under paragraph 3 above.

Modifications of proposals

- 5 (1) Where notices with respect to any proposed order have been published and served in accordance with paragraph 3 above and the period of forty-two days mentioned in sub-paragraph (3)(b) of that paragraph has expired, the relevant Minister may—
- (a) make the order either in the proposed terms or, subject to sub-paragraph (2) below (but without any further compliance with paragraph 3 above), in those terms as modified in such manner as he thinks fit; or
 - (b) decide not to make any order.
- (2) The relevant Minister shall not make such a modification of a proposed order of which notice has been so published and served as he considers is likely adversely to

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affect any persons unless he has given such notices as he considers appropriate for enabling those persons to object to the modification.

- (3) Subject to sub-paragraph (2) above and to the service of notices of the proposed modification on such local authorities as appear to him to be likely to be interested in it, the modifications that may be made by the relevant Minister include any modification of any area designated by the proposed order as a nitrate sensitive area.
- (4) For the purposes of this Schedule it shall be immaterial, in a case in which a modification such as is mentioned in sub-paragraph (3) above incorporates land in England in an area which (but for the modification) would have been wholly in Wales, that any requirements of paragraph 3 above in relation to the proposed order have been complied with by the Secretary of State, rather than by the Ministers.

Consideration of objections etc.

- 6 Without prejudice to section 213 of this Act, where notices with respect to any proposed order have been published and served in accordance with paragraph 3 above, the Secretary of State or, as the case may be, the Ministers may, if he or they consider it appropriate to do so, hold a local inquiry before deciding whether or not to make the proposed order or to make it with modifications.

Consent of Treasury for payment provisions

- 7 The consent of the Treasury shall be required for the making of any order under section 94 of this Act the making of which does not require the consent of the Treasury by virtue of paragraph 1 above but which contains any such provision as is authorised by subsection (3)(b) of that section.

SCHEDULE 13 E+W

Section 103.

TRANSITIONAL WATER POLLUTION PROVISIONS

*Transitional power to transfer power of determination
with respect to water pollution matters to the Authority*

- 1 Where by virtue of the provisions of Schedule 2 to the ^{M23}Water Consolidation (Consequential Provisions) Act 1991 in relation to anything having effect under paragraph 21 of Schedule 26 to the ^{M24}Water Act 1989 any matter falls to be determined by the Secretary of State in accordance with any of the provisions of Part III of this Act (other than section 91), that matter shall, if the Secretary of State refers the matter to the Authority for determination, be determined by the Authority instead.

Marginal Citations

M23 1991 c. 60.

Status: Point in time view as at 06/01/1994.

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M24 1989 c. 15.

Order under section 32(3) of the 1974 Act

- 2 (1) Except in so far as the Secretary of State by order otherwise provides, section 85 of this Act shall not apply to any discharges which are of a kind or in any area specified in an order which was made under subsection (3) of section 32 of the ^{M25}Control of Pollution Act 1974 (preservation of existing exemptions) and is in force for the purposes of paragraph 22(1) of Schedule 26 to the ^{M26}Water Act 1989 immediately before the coming into force of this Act.
- (2) The Secretary of State may by order require the Authority to publish in a manner specified in the order such information about the operation of any provision made by or under this paragraph as may be so specified.
- (3) The power to make an order under this paragraph shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Marginal Citations

M25 1974 c. 40.

M26 1989 c. 15

Pre-1989 transitional provisions

- 3 (1) A consent which has effect, in accordance with paragraph 24(2) of Schedule 26 to the Water Act 1989 and paragraph 1 of Schedule 2 to the ^{M27}Water Consolidation (Consequential Provisions) Act 1991, as a consent given for the purposes of Chapter II of Part III of this Act in respect of an application which itself has effect, by virtue of paragraph 21 of that Schedule 26 and that paragraph 1, as an application made under Schedule 10 to this Act shall cease to have effect on the disposal of that application by—
- (a) the giving of an unconditional consent on that application;
- (b) the expiration, without an appeal under section 91 of this Act being brought, of the period of three months beginning with the date on which notice is served on the applicant that the consent applied for is refused or is given subject to conditions; or
- (c) the withdrawal or determination of any such appeal.
- (2) Particulars of consents to which sub-paragraph (1) above applies shall not be required to be contained in any register maintained under section 190 of this Act.

Marginal Citations

M27 1991 c. 60.

Status: Point in time view as at 06/01/1994.

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Discharge consents on application of undertakers etc.

- 4 (1) The repeal by the Water Consolidation (Consequential Provisions) Act 1991 of sub-paragraphs (2) and (6) of paragraph 25 of Schedule 26 to the Water Act 1989 shall not affect any provision made under section 113(2) of that Act for the purposes of either of those sub-paragraphs; and, accordingly any such provision shall have effect in accordance with Schedule 2 to that Act of 1991 as if made in exercise of a power conferred by section 99 of this Act.
- (2) If the Secretary of State determines that this sub-paragraph is to apply in relation to any application which is deemed by virtue of paragraph 25(2)(a) of Schedule 26 to the Water Act 1989 and Schedule 2 to the Water Consolidation (Consequential Provisions) Act 1991 to have been made to the Authority by the successor company of a water authority—
- (a) that application shall be treated as having been transmitted to the Secretary of State in accordance with a direction under paragraph 4 of Schedule 10 to this Act; but
 - (b) the Authority shall not be required, by virtue of sub-paragraph (2) of that paragraph 4, to inform that company that the application is to be so treated.
- (3) Where an application is deemed to have been so made by the successor company of a water authority, then, whether or not it is treated under sub-paragraph (2) above as having been transmitted to the Secretary of State, the following provisions shall apply in relation to the application and, except in so far as the Secretary of State otherwise directs, shall so apply instead of paragraphs 1(4) to (6) and 2(1) or, as the case may be, paragraph 4(3) of Schedule 10 to this Act, that is to say—
- (a) the application shall not be considered by the Secretary of State or the Authority unless the company has complied with such directions (if any) as may be given by the Secretary of State with respect to the publicity to be given to the application;
 - (b) the Secretary of State or, as the case may be, the Authority shall be under a duty to consider only such representations and objections with respect to the application as have been made in writing to the Secretary of State or the Authority before the end of such period as he may determine and as are not withdrawn; and
 - (c) the Secretary of State shall have power to direct the Authority (pending compliance with any direction under paragraph (a) above or pending his or, as the case may be, its consideration of the application, representations and objections) to give such a temporary consent under Chapter II of Part III of this Act, or to make such temporary modifications of the conditions of any existing consent, as may be specified in the direction.
- (4) The power of the Secretary of State to make a determination or give a direction under sub-paragraph (2) or (3) above shall be exercisable generally in relation to applications of any such description as he may consider appropriate (as well as in relation to a particular application) and, in the case of a direction to give a temporary consent or to make a temporary modification, shall include-
- (a) power to require a temporary consent to be given either unconditionally or subject to such conditions falling within paragraph 2(5) of Schedule 10 to this Act as may be specified in the direction;

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- (b) power, where the direction relates to a description of applications, to require the temporary consent given in pursuance of the direction to be a general consent relating to cases of such a description as may be so specified; and
 - (c) power, where the direction is in respect of an application falling to be considered by the Authority, to require the consent or modification to be given or made so as to continue to have effect until the Authority's determination on the application becomes final—
 - (i) on the expiration, without the bringing of an appeal against the determination, of the prescribed period for the bringing of such an appeal; or
 - (ii) on the withdrawal or determination of any such appeal.
- (5) Without prejudice to the provisions of Schedule 2 to the ^{M28}Water Consolidation (Consequential Provisions) Act 1991, a consent to which sub-paragraph (7) of paragraph 25 of the ^{M29}Water Act 1989 applies immediately before the coming into force of this Act by virtue of its conditions including a condition that is contravened where there is a failure by more than a specified number of samples to satisfy specified requirements, shall continue to have effect as if the only samples falling to be taken into account for the purposes of that condition were samples taken on behalf of the Authority in exercise, at a time after 31st August 1989, of a power conferred by the Water Act 1989 or a corresponding provision of this Act.
- (6) References in this paragraph to the successor company of a water authority shall be construed in accordance with the Water Act 1989.

Marginal Citations

M28 1991 c. 60.

M29 1989 c. 15.

SCHEDULE 14 **E+W**

Section 108.

ORDERS TRANSFERRING MAIN RIVER FUNCTIONS TO THE AUTHORITY

Procedure on application for order

- 1 As soon as any scheme under section 108 of this Act has been submitted to one of the Ministers, the Authority shall—
- (a) send copies of the scheme to every internal drainage board, local authority, navigation authority, harbour authority and conservancy authority affected by it; and
 - (b) publish, in one or more newspapers circulating in the area affected by the scheme, a notice stating—
 - (i) that the scheme has been submitted to that Minister;
 - (ii) that a copy of it is open to inspection at a specified place; and

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- (iii) that representations with respect to the scheme may be made to that Minister at any time within one month after the publication of the notice.

Order making procedure etc.

- 2 (1) Before either of the Ministers makes an order under section 108 of this Act, he shall cause notice of—
- (a) the intention to make it;
 - (b) the place where copies of the draft order may be inspected and obtained; and
 - (c) the period within which, and the manner in which, objections to the draft order may be made,
- to be published in the London Gazette and in such other manner as he thinks best adapted for informing persons affected and to be sent to the persons specified in sub-paragraph (2) below.
- (2) The persons referred to in sub-paragraph (1) above are—
- (a) every county council or London borough council in whose area any part of the area proposed to be affected by the order is situated and, if any part of that area is situated in the City of London, the Common Council of the City of London;
 - (b) the Authority and every drainage body, navigation authority, harbour authority or conservancy authority that is known to the Minister in question to be exercising jurisdiction within the area proposed to be affected by the order.
- (3) In sub-paragraph (2) above “drainage body” has the same meaning as in section 108 of this Act.

Determination of whether to make order

- 3 (1) Before either of the Ministers makes an order under section 108 of this Act he—
- (a) shall consider any objections duly made to the draft order; and
 - (b) may, in any case, cause a public local inquiry to be held with respect to any objections to the draft order.
- (2) Each of the Ministers may, in making an order under section 108 of this Act, make such modifications in the terms of the draft as appear to him to be desirable and may confirm the scheme to which the order relates either with or without modifications.

Notice of orders

- 4 As soon as may be after an order under section 108 of this Act has effect one of the Ministers shall publish in the London Gazette, and in such other manner as he thinks best adapted for informing persons affected, a notice—
- (a) stating that the order has come into force; and
 - (b) naming a place where a copy of it may be seen at all reasonable hours.

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Challenge to orders

- 5 (1) If any person aggrieved by an order under section 108 of this Act desires to question its validity on the ground—
- (a) that it is not within the powers of this Act; or
 - (b) that any requirement of this Act has not been complied with,
- he may, within six weeks of the date of the publication of the notice mentioned in paragraph 4 above, make an application for the purpose to the High Court.
- (2) Where an application is duly made to the High Court under this paragraph, the High Court, if satisfied—
- (a) that the order is not within the powers of this Act; or
 - (b) that the interests of the applicant have been substantially prejudiced by any requirements of this Act not having been complied with,
- may quash the order either generally or in so far as it affects the applicant.
- (3) Except by leave of the Court of Appeal, no appeal shall lie to the House of Lords from a decision of the Court of Appeal in proceedings under this paragraph.
- (4) Subject to the preceding provisions of this paragraph an order under section 108 of this Act shall not at any time be questioned in any legal proceedings whatsoever.

Power to make regulations for purposes of Schedule etc.

- 6 The Ministers may make regulations in relation to—
- (a) the publication of notices under paragraph 2 or 4 above;
 - (b) the holding of public local inquiries under this Schedule and procedure at those inquiries; and
 - (c) any other matters of procedure respecting the making of orders under section 108 of this Act.

SCHEDULE 15 **E+W**

Sections 135 and 138.

SUPPLEMENTAL PROVISIONS WITH RESPECT TO DRAINAGE CHARGES

Raising of drainage charge

- 1 (1) A drainage charge—
- (a) shall be raised by the Authority in writing under the common seal of the Authority; and
 - (b) shall be deemed to be raised on the date on which a resolution is passed by the Authority authorising their seal to be affixed to the charge.
- (2) Every drainage charge shall be raised for a year ending on 31st March and shall be raised before or during the year for which it is raised.
- (3) Without prejudice to their powers by virtue of section 112 of this Act, the Ministers shall each have power by regulations to prescribe the forms of drainage charges and of demands for drainage charges.

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Publication of drainage charge

- 2 (1) A drainage charge shall not be valid unless notice of the charge is given by the Authority in accordance with sub-paragraph (2) below within ten days of the date on which it is raised.
- (2) The notice must—
- (a) state the amount of the charge and the date on which it was raised; and
 - (b) be published in one or more newspapers circulating in the area in respect of which the charge was raised.

Occupiers liable for drainage charge

- 3 (1) Subject to paragraphs 4 and 5 below—
- (a) drainage charges shall be levied on the occupiers of chargeable land in the local flood defence district or, as the case may be, the designated area; and
 - (b) sub-paragraphs (2) to (4) below shall have effect with respect to the assessment of persons to a drainage charge with respect to any land (“the relevant land”) and their liability in regard to the charge.
- (2) A drainage charge shall be assessed on the person who at the date of the raising of the charge is the occupier of the relevant land.
- (3) The full amount of a drainage charge may be recovered by the Authority from any person who is the occupier of the relevant land at any time during the period for which the charge is raised; but a person who is in occupation of the relevant land for part only of the period for which the charge is raised shall be liable, by virtue of sub-paragraph (4) below, to bear a proportionate part only of the charge.
- (4) If a person who is in occupation of the relevant land for part only of a period for which a drainage charge is raised is required under sub-paragraph (3) above to pay the full amount of the charge, he may (subject to any agreement to the contrary) recover, from any other person who has been in occupation of the land for part of that period, the amount which that other person is liable to bear.

Cases where identity of occupiers in doubt

- 4 (1) The Authority may serve on the owner of any land a notice requiring him to state in writing the name and address of any person known to him as being an occupier of that land.
- (2) The owner of any land shall be guilty of an offence if—
- (a) he fails without reasonable excuse to comply with a notice under sub-paragraph (1) above;
 - (b) he makes any statement in respect of the information required by such a notice which he knows to be false in a material particular; or
 - (c) he recklessly makes any statement in respect of the information required by such a notice which is false in a material particular.

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- (3) A person guilty of an offence under sub-paragraph (2) above shall be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale; and a person convicted by virtue of paragraph (a) of that sub-paragraph shall be liable to a further conviction by virtue of that paragraph if, after conviction, he continues without reasonable excuse to comply with the notice in question.
- (4) Where the name of any person liable to be assessed to any drainage charge is not known to the Authority, it shall be sufficient to assess him to the charge by the description of the “occupier” of the premises (naming them) in respect of which the assessment is made, without further name or description.
- (5) For the purposes of this Schedule the owner of any land shall be deemed to be its occupier during any period during which it is unoccupied.
- (6) Sub-paragraphs (1) to (3) above shall be without prejudice to the provisions of Part VIII of this Act.

Arrangements for owner of land to pay drainage charge

- 5 (1) Subject to paragraph 6 below, the Authority may make arrangements with the owner of any chargeable land for any drainage charges which may be raised by the Authority for any period in respect of the land to be levied on the owner, instead of on the occupier of the land.
- (2) Where arrangements under this paragraph are made—
 - (a) the charges in question shall be levied on the owner, instead of on the occupier; and
 - (b) any reference to an occupier in the provisions of this Schedule (except in this paragraph and paragraph 6 below) shall be construed accordingly.
- (3) Subject to sub-paragraph (4) below, where in pursuance of any arrangements under this paragraph the owner of any land pays drainage charges in respect of the land to the Authority either—
 - (a) before the end of the period of two months beginning with the date of the service on him of the demand for the charges; or
 - (b) before the end of one-half of the period for which the charges are raised, the Authority shall make to him an allowance equal to ten per cent. of the full amount of the charges.
- (4) No allowance shall be made under sub-paragraph (3) above in respect of charges which, apart from this paragraph, are payable for any period by the owner in pursuance of paragraph 4(5) above.
- (5) Where arrangements are made under this paragraph, it shall be the duty of the Authority to give notice of the arrangements, forthwith after they are made, to the occupier of the land affected by them.
- (6) The owner of any land who is a party to any arrangements under this paragraph in respect of the land may recover from the occupier of the land a sum equal to the amount of any drainage charges in respect of the land which, apart from the arrangements, would be payable by the occupier.

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Power of occupier to prevent arrangements under paragraph 5

- 6 (1) The occupier of any chargeable land may, by notice given to the Authority, determine—
- (a) that no arrangements under paragraph 5 above shall be made in respect of the land; and
 - (b) that any such arrangements previously made shall cease to have effect so far as they relate to the land and any drainage charge to be raised for a period beginning after the date on which the notice takes effect;
- and may, by a notice so given, revoke any determination under this sub-paragraph so far as it prohibits the making of any such arrangements in respect of the land.
- (2) A notice under sub-paragraph (1) above shall take effect on the day following that on which it is given to the Authority.
- (3) Where notice is given to the Authority under sub-paragraph (1) above, it shall be the duty of the Authority to send a copy of the notice to the owner of the land to which it relates.

Assessment of chargeable land to drainage charge

- 7 (1) Where land is chargeable land during part only of the year for which a drainage charge is raised, a proportionate part only of the charge shall be payable in respect of that land; and any amount overpaid shall be repaid.
- (2) Where the area of chargeable land in respect of which, apart from this sub-paragraph, a sum is payable by any person by way of a drainage charge consists of or includes a fraction of a hectare, then for the purpose of calculating that sum the fraction shall be disregarded if it is less than one-half and treated as one hectare in any other case.

Partial exemption of commercial woodlands

- 8 (1) The sum payable by way of a drainage charge in respect of chargeable land consisting of commercial woodlands shall be calculated as if the area of the land were one-fifth of its actual area.
- (2) In the application of paragraph 7(2) above to chargeable land to which sub-paragraph (1) above applies the area ascertained in pursuance of sub-paragraph (1) above (and not the area of which it is one-fifth) shall be treated as the area in relation to which paragraph 7(2) above has effect.

Returns with respect to land

- 9 (1) The Authority may serve on any person appearing to it to be the occupier of any land a notice requiring him to furnish a return under sub-paragraph (2) below to the Authority within twenty-eight days beginning with the date of service of the notice on him.
- (2) The return required of a person by a notice under sub-paragraph (1) above is a return, in writing and in such form as may be specified in the notice, containing such

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particulars as may reasonably be required for the purpose of enabling the Authority to determine—

- (a) how much (if any) of the land occupied by that person is chargeable land; and
- (b) how much (if any) consists of commercial woodlands.

(3) If any person on whom notice has been served under sub-paragraph (1) above—

- (a) fails without reasonable excuse to comply with the notice;
- (b) in a return made in pursuance of such a notice, makes any statement which he knows to be false in a material particular; or
- (c) in any such return recklessly makes any statement which is false in a material particular,

he shall be guilty of an offence

(4) A person guilty of an offence under sub-paragraph (3) above shall be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale; and a person convicted by virtue of paragraph (a) of that sub-paragraph shall be liable to a further conviction by virtue of that paragraph if, after conviction, he continues without reasonable excuse to comply with the notice in question.

(5) This paragraph shall be without prejudice to the provisions of Part VIII of this Act.

Power to correct erroneous assessments etc.

10 (1) The Authority may, as respects any drainage charge raised by it for the current or the preceding year, make such amendments in any demands or other documents relating to the charge as appear to the Authority necessary in order to make the raising, levying and collection of the charge conform with this Act.

(2) In particular, the Authority may—

- (a) correct any clerical or arithmetical error;
- (b) correct any erroneous insertions or omissions or any misdescriptions;
- (c) make such additions or corrections as appear to the Authority to be necessary by reason of any change in the occupation of any chargeable land or any property ceasing to be chargeable land.

(3) The Authority shall serve a notice of any amendment made by the Authority in pursuance of this paragraph on the occupier of all land affected thereby.

(4) Where an amendment is made in pursuance of this paragraph—

- (a) any amount overpaid shall be repaid or allowed; and
- (b) any amount underpaid may be recovered as if it were arrears of the charge.

Appeals against demands for drainage charges

11 (1) If any person is aggrieved by—

- (a) a demand for a drainage charge made on him as the occupier of chargeable land; or
- (b) an amendment of such a demand,

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he may appeal to the county court for the area in which the land or any part of it is situated.

- (2) Notice of appeal under this paragraph, specifying the grounds of appeal, must be given within the required period—
 - (a) to the court to which the appeal is made;
 - (b) to the Authority; and
 - (c) if the appeal relates to land not in the occupation of the appellant, to the occupier of the land.
- (3) For the purposes of sub-paragraph (2) above the required period is twenty-eight days after the date on which the demand is made or, as the case may be, notice of the amendment is served on the appellant.
- (4) On an appeal under this paragraph the court shall, as it thinks just, either confirm the demand or annul or modify it.

Recovery of drainage charges

- 12 (1) Arrears of any drainage charge may be recovered by the Authority in the same manner in which arrears of a non-domestic rate may be recovered under the ^{M30}Local Government Finance Act 1988 by a [^{F9}billing authority] within the meaning of that Act.
- (2) Without prejudice to its powers by virtue of section 4 of this Act and paragraph 5 of Schedule 1 to this Act, the Authority may by resolution authorise any member or officer of the Authority, either generally or in respect of particular proceedings—
 - (a) to institute or defend on its behalf any proceedings in relation to a drainage charge; or
 - (b) notwithstanding that he is not qualified to act as a solicitor, to appear on the Authority's behalf in any proceedings before a magistrates' court for the issue of a warrant of distress for failure to pay a drainage charge.
- (3) In proceedings for the recovery of arrears of a drainage charge the defendant shall not be entitled to raise by way of defence any matter which might have been raised on an appeal under paragraph 11 above.
- (4) The Authority shall not be required to demand or enforce payment of a drainage charge in any case where the amount of the charge is insufficient to justify the expense of collection.

Textual Amendments

F9 Words in [Sch. 15 para. 12\(1\)](#) substituted (1.8.1992 subject to savings in [S.I. 1992/1755, art. 2\(2\)](#)) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 117(1), [Sch. 13 para.98](#) (with s. 118(1)(2)(4); [S.I. 1992/1755, art. 2\(1\)](#))

Marginal Citations

M30 [1988 c. 41.](#)

Status: Point in time view as at 06/01/1994.

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Use of certain authorities as agents for assessment, collection etc. of drainage charges

- 13 (1) The Authority and any relevant authority may enter into agreements for—
- (a) the doing by the relevant authority, as agents of the Authority, of anything required for the purpose of the assessment to and recovery of a drainage charge in respect of any relevant land; and
 - (b) the making by the Authority to the relevant authority of payments in respect of anything so done.
- (2) The Authority may make arrangements with either of the Ministers for the exercise by him on behalf of the Authority, in such cases as may be determined in pursuance of the arrangements, of the powers conferred on the Authority by paragraph 9 above.
- (3) Any arrangements under sub-paragraph (2) above shall contain provision for the reimbursement by the Authority of any expenses incurred by the Minister in question in pursuance of the arrangements.
- (4) In this paragraph—
- “relevant authority” means the council of any district or London borough or any internal drainage board; and
 - “relevant land”, in relation to an agreement with any relevant authority, means—
- (a) where the relevant authority is a district or London borough council, the chargeable land within the council’s area; and
 - (b) where the relevant authority is an internal drainage board, such land as may be specified in the agreement.

SCHEDULE 16 **E+W**

Section 137.

SCHEMES IMPOSING SPECIAL DRAINAGE CHARGES

Submission of scheme

- 1 (1) Before submitting a special charges scheme to either of the Ministers, the Authority shall consult organisations appearing to it to represent the interests of persons engaged in agriculture in the area designated in the scheme.
- (2) As soon as any special charges scheme has been submitted to either of the Ministers, the Authority shall—
- (a) send copies of the scheme to—
- (i) the council of any county, district or London borough wholly or partly within the relevant area;
 - (ii) the drainage board for any internal drainage district within the relevant area; and
 - (iii) every organisation appearing to the Authority to represent the interests of persons engaged in agriculture in the relevant area;
- and

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- (b) publish, in one or more newspapers circulating in the area affected by the scheme, a notice stating—
 - (i) that the scheme has been submitted to that Minister;
 - (ii) that a copy of it is open to inspection at a specified place; and
 - (iii) that representations with respect to the scheme may be made to that Minister at any time within one month after the publication of the notice.
- (3) Where the Authority submit a special charges scheme which designates any watercourse wholly or partly within an internal drainage district, then (unless the Authority is the drainage board for that district) the scheme must be accompanied either—
 - (a) by a statement of the drainage board for that district that they have consented to the designation; or
 - (b) by a statement that they have not consented thereto and a further statement setting out the reasons why the watercourse should nevertheless be designated for the purposes of section 137 of this Act.
- (4) For the purposes of sub-paragraph (2) above “the relevant area” is the area designated in the scheme.

Confirmation of scheme

- 2 (1) Subject to the following provisions of this Schedule the Minister to whom a special charges scheme has been submitted may by order made by statutory instrument confirm the scheme either with or without modifications.
- (2) Neither of the Ministers shall confirm a special charges scheme unless he is satisfied that the scheme is reasonable and financially sound, having regard to all the circumstances, and in particular to any contributions from local authorities and internal drainage boards which, if the scheme is confirmed, are likely to be available to the Authority in addition to the special drainage charge authorised by the scheme.
- (3) An order confirming a special charges scheme may contain provisions with respect to the persons by whom all or any of the expenses incurred by either of the Ministers or by other persons in connection with the making or confirmation of the order, or the making of the scheme, are to be borne.

Notice of proposed order

- 3 (1) Before either of the Ministers makes an order confirming a special charges scheme he shall cause notice of—
 - (a) the intention to make it;
 - (b) the place where copies of the draft order may be inspected and obtained; and
 - (c) the period within which, and the manner in which, objections to the draft order may be made,
 to be published in the London Gazette and in such other manner as he thinks best adapted for informing persons affected and to be sent to the persons specified in sub-paragraph (2) below.

Status: Point in time view as at 06/01/1994.

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- (2) The persons referred to in sub-paragraph (1) above are—
- (a) every county council or London borough council in whose area any part of the area proposed to be affected by the order is situated and, if any part of that area is situated in the City of London, the Common Council of the City of London; and
 - (b) the Authority and every drainage body, navigation authority, harbour authority or conservancy authority that is known to the Minister in question to be exercising jurisdiction within the area proposed to be affected by the order.
- (3) In sub-paragraph (2) above “drainage body” has the same meaning as in section 108 of this Act.

Determination of whether to make order

- 4 (1) Before either of the Ministers makes an order confirming a special charges scheme, he—
- (a) shall consider any objections duly made to the draft order; and
 - (b) may, in any case, cause a public local inquiry to be held with respect to any objections to the draft order.
- (2) Each of the Ministers shall have power, in making an order confirming a special charges scheme, to make such modifications in the terms of the draft as appear to him to be desirable.

Procedure and other matters after the making of an order

- 5 (1) After either of the Ministers has made an order confirming a special charges scheme, the order (together with a notice under sub-paragraph (2) below) shall be published in such manner as he thinks best adapted for informing the persons affected.
- (2) A notice under this sub-paragraph is a notice—
- (a) that the Minister in question has made the order; and
 - (b) that the order will become final and have effect unless, within such period of not less than thirty days as may be specified in the notice, a memorial praying that the order shall be subject to special parliamentary procedure is presented to that Minister, by a person who is affected by the order and has such interest as may be prescribed by regulations made by one of the Ministers as being sufficient for the purpose.

Orders subject to special parliamentary procedure

- 6 (1) If—
- (a) no such memorial as is mentioned in paragraph 5(2) above has been presented within the period so mentioned in respect of any order confirming a special charges scheme; or
 - (b) every such memorial has been withdrawn,
- the Minister who made the order shall confirm the order and it shall thereupon have effect.
- (2) If such a memorial has been presented in respect of such an order and has not been withdrawn, the order shall be subject to special parliamentary procedure.

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- (3) An order confirming a special charges scheme shall in any event be subject to special parliamentary procedure if the Minister who makes the order so directs.
- (4) The Minister who makes an order confirming a special charges scheme may, at any time before it has been laid before Parliament, revoke, either wholly or partially, any order that is subject to special parliamentary procedure.

Notice of unconfirmed orders

- 7 As soon as may be after an unconfirmed order has effect, the Minister who made the order shall publish in the London Gazette, and in such other manner as he thinks best adapted for informing persons affected, a notice—
- (a) stating that the order has come into force; and
 - (b) naming a place where a copy of it may be seen at all reasonable hours.

Challenge to unconfirmed orders

- 8 (1) If any person aggrieved by an unconfirmed order desires to question its validity on the ground—
- (a) that it is not within the powers of this Act; or
 - (b) that any requirement of this Act has not been complied with,
- he may, within six weeks of the relevant date, make an application for the purpose to the High Court.
- (2) Where an application is duly made to the High Court under this paragraph, the High Court, if satisfied—
- (a) that the order is not within the powers of this Act; or
 - (b) that the interests of the applicant have been substantially prejudiced by any requirements of this Act not having been complied with,
- may quash the order either generally or in so far as it affects the applicant.
- (3) Except by leave of the Court of Appeal, no appeal shall lie to the House of Lords from a decision of the Court of Appeal in proceedings under this paragraph.
- (4) Subject to the preceding provisions of this paragraph an unconfirmed order shall not at any time be questioned in any legal proceedings whatsoever.
- (5) In this paragraph “the relevant date”, in relation to an order, means—
- (a) where the order is subject to special parliamentary procedure, the date on which the order becomes operative under the ^{M31}Statutory Orders (Special Procedure) Act 1945;
 - (b) where the order is not subject to special parliamentary procedure, the date of the publication of the notice mentioned in paragraph 7 above.

Marginal Citations

M31 1945 c. 18 (9 & 10 Geo 6).

Power to make regulations for purposes of Schedule

- 9 The Ministers may make regulations in relation to—

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- (a) the publication of notices under this Schedule;
- (b) the holding of public local inquiries under this Schedule and procedure at those inquiries; and
- (c) any other matters of procedure respecting the making of orders confirming a special charges scheme.

Interpretation

- 10 (1) In this Schedule—
- “special charges scheme” means a scheme under section 137 of this Act; and
- “unconfirmed order” means an order confirming a special charges scheme, other than one which is itself confirmed under section 6 of the Statutory Orders (Special Procedure) Act 1945.
- (2) Section 113 of this Act shall apply for the interpretation of this Schedule as it applies for the interpretation of Part IV of this Act.

SCHEDULE 17 **E+W**

Section 143.

ORDERS WITH RESPECT TO NAVIGATION TOLLS

Orders to be made by statutory instrument

- 1 The power to make an order under section 143 of this Act shall be exercisable by statutory instrument.

Inquiries

- 2 (1) The Secretary of State may hold inquiries for the purposes of section 143 of this Act as if those purposes were purposes of the ^{M32}Ministry of Transport Act 1919; and section 20 of that Act (power to hold inquiries) shall have effect accordingly.
- (2) The Secretary of State may make such order as to the payment of costs incurred by him in connection with any such inquiry as he may think just.

Marginal Citations

M32 1919 c. 50.

Notice of order

- 3 (1) After the Secretary of State has made an order under section 143 of this Act, the order, together with a notice under sub-paragraph (2) below, shall be published in such manner as he thinks best adapted for informing the persons affected.
- (2) A notice under this sub-paragraph is a notice—
- (a) that the Secretary of State has made the order; and
 - (b) that the order will become final and have effect unless, within such period of not less than thirty days as may be specified in the notice, a memorial praying

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that the order shall be subject to special parliamentary procedure is presented to the Secretary of State, by a person who is affected by the order and has such an interest as may be prescribed as being sufficient for the purpose.

Orders subject to special parliamentary procedure

- 4 (1) If—
- (a) no such memorial as is mentioned in paragraph 3(2) above has been presented within the period so mentioned in respect of any order under section 143 of this Act; or
 - (b) every such memorial has been withdrawn,
- the Secretary of State shall confirm the order and it shall thereupon have effect.
- (2) If such a memorial has been presented in respect of such an order and has not been withdrawn, the order shall be subject to special parliamentary procedure.
 - (3) An order under section 143 of this Act shall, in any event, be subject to special parliamentary procedure if the Secretary of State so directs.
 - (4) The Secretary of State may, at any time before it has been laid before Parliament, revoke, either wholly or partially, any order under section 143 of this Act that is subject to special parliamentary procedure.

SCHEDULE 18 **E+W**

Section 154.

MODIFICATION OF COMPENSATION PROVISION 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 154 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 (1) 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 154 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 154 of this

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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 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

4 For subsection (1) of section 8 of the 1965 Act (protection for vendor against severance of house, garden, etc.) there shall be substituted the following subsections—

“(1) No person shall be required to grant any right over part only—

(a) of any house, building or manufactory; or

(b) of a park or garden belonging to a house,

if he is willing to sell the whole of the house, building, manufactory, park or garden, unless the Lands Tribunal determine that—

(i) in the case of a house, building or manufactory, the part over which the right is proposed to be acquired can be made subject to that right without material detriment to the house, building or manufactory; or

(ii) in the case of a park or garden, the part over which the right is proposed to be acquired can be made subject to that right without seriously affecting the amenity or convenience of the house;

and, if the Lands Tribunal so determine, the Tribunal shall award compensation in respect of any loss due to the acquisition of the right, in addition to its value; and thereupon the party interested shall be required to grant to the acquiring authority that right over the part of the house, building, manufactory, park or garden.

(1A) In considering the extent of any material detriment to a house, building or manufactory, or any extent to which the amenity or convenience of a house is affected, the Lands Tribunal shall have regard not only to the right which is to be acquired over the land, but also to any adjoining or adjacent land belonging to the same owner and subject to compulsory purchase.”

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—

(a) section 9(4) (refusal by owners to convey);

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- (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 154 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.

ORDERS CONFERRING COMPLUSORY WORKS POWERS

Modifications etc. (not altering text)

- C5** Sch. 19 applied (2.5.2006 for E. and 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), regs. 1(2)(4), 2(1), [Sch. Pt. 1](#); S.I. 2006/1172, [art. 2\(a\)-\(d\)](#) (with art. 3); S.I. 2006/1279, [art. 2\(a\)-\(d\)](#) (with art. 3)

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Applications for orders

- 1 (1) Where the Authority applies to either of the Ministers for a compulsory works order, it shall—
- (a) submit to that Minister 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 that Minister;
 - (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 the Authority 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 Authority, 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 Minister applied to, 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 either of the Ministers are—
- (a) every local authority whose area is or includes the whole or any part of a relevant locality and which is not a county council;
 - (b) every water undertaker whose area is or includes the whole or any part of such a locality;
 - (c) 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;
 - (d) every owner, lessee or occupier (except tenants for a month or for any period of less than a month) of any land in relation to which compulsory powers would become exercisable if the order were made in the terms of the draft order;
 - (e) every person who has given notice to the Authority requiring it to notify him of applications for compulsory works orders and has paid such reasonable charge as the Authority may have required him to pay for being notified by virtue of this paragraph;
 - (f) such other persons as may be prescribed.
- (4) In this paragraph “relevant locality”, in relation to an application for an order, 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 the Authority 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.

Supply of copies of draft orders

- 2 Where the Authority is applying for a compulsory works order, it shall, at the request of any person and on payment by that person of such charge (if any) as the Authority may reasonably require, furnish that person with a copy of any draft order submitted to either of the Ministers 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 Minister or the Secretary of State may make the order either in the terms of the draft order submitted 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) Neither of the Ministers shall make such a modification of a draft order as he considers is likely adversely to affect any persons unless he is satisfied that the

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Authority has given and published such additional notices, in such manner, as he may have required.

- (3) Neither of the Ministers shall, 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 under paragraph 1 above.
- (4) Where one of the Ministers refuses, on an application for a compulsory works order, to make an order, the Authority 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.

Consideration of objections etc.

- 4 (1) If, where an application for a compulsory works order has been made, either of the Ministers receives any notice of an objection to it, before the end of the relevant period, 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 that Minister to be affected by the order as submitted or as proposed to be modified under paragraph 3 above,then, unless the objection is withdrawn, the Minister or 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 Authority an opportunity of appearing before, and being heard by, a person appointed by him for the purpose.
- (2) Where any objection received by one of the Ministers as mentioned in sub-paragraph (1) above relates to any powers of compulsory acquisition, the Minister or the Secretary of State—
 - (a) may require the objector to state in writing the grounds of his objection; and
 - (b) if he is satisfied that the objection relates exclusively to matters that can be dealt with in the assessment of compensation, 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 Minister considering the application, with any further periods specified with respect to the modifications in notices under paragraph 3(2) above.

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Notice after making of order

- 5 (1) As soon as practicable after a compulsory works order has been made, the Authority 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 the Authority 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, the discharges would have on the flow, level and quality of water in any inland waters or underground strata; 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 Authority shall, at the request of any person and on payment by that person of such charge (if any) as the Authority may reasonably require, furnish that person with a copy of the order and of any relevant map or plan.
- (4) 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 Authority 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.

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Compulsory acquisition provisions

- 6 (1) Without prejudice to the provisions of Schedule 23 to this Act—
- (a) Part I of the ^{M33}Compulsory Purchase Act 1965;
 - (b) section 4 and Part III of, and Schedule 3 to, the ^{M34}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 154 of this Act and, accordingly, shall so apply, where the case so requires, with the modifications made by Schedule 18 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.
- (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

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(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 6 of the ^{M35}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 ^{M36}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.

Marginal Citations

- M33** 1965 c. 56.
- M34** 1981 c. 67.
- M35** 1945 c. 18 (9 & 10 Geo. 6).
- M36** 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 this Act is granted, or is deemed to be granted, to the Authority; 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.

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—

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- (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 Authority 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 compulsorily acquired under section 154 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 Authority 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 Authority 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 the Authority in pursuance of a compulsory works order shall be entitled to recover compensation from the Authority 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 Authority) 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 Lands Tribunal; and in relation to the determination of any such compensation the provisions of sections 2 and 4 of the ^{M37}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 Land Compensation Act 1961

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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 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.

Marginal Citations

M37 1961 c. 33.

Protection of public undertakings

- 9 The provisions of section 179 and paragraphs 1, 2 and 5 of Schedule 22 to this Act shall apply, as they apply in relation to the carrying out of works in exercise of the powers specified in those provisions, 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 ^{M38}Highways Act 1980;
- “compulsory works order” means an order under section 168 of this Act;
- “powers of compulsory acquisition” means any such powers as are mentioned in subsection (4)(a) of section 168 of this Act;
- and references to a tenant for a month or for any period of less than a month include references to a statutory tenant, within the meaning of the ^{M39}Landlord and Tenant

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Act 1985, and to a licensee under an assured agricultural occupancy, within the meaning of Part I of the ^{M40}Housing Act 1988.

Marginal Citations

- M38** 1980 c. 66.
- M39** 1985 c. 70.
- M40** 1988 c. 50.

SCHEDULE 20 **E+W**

Section 173.207.

SUPPLEMENTAL PROVISIONS WITH RESPECT TO POWERS OF ENTRY

Notice of entry

- 1 (1) Without prejudice to any power exercisable by virtue of a warrant under this Schedule, no person shall make an entry into any premises or vessel by virtue of any power conferred by sections 169 to 172 of this Act 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 or vessel.
- (2) For the purposes of this paragraph the required notice is seven days' notice; but such notice shall not be required in the case of an exercise of a power conferred by section 169 or 172 above, except where the premises in question are residential premises, the vessel in question is used for residential purposes or the entry in question is to be with heavy equipment.
- (3) For the purposes of the application of this paragraph to the power conferred by section 170 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 ^{M41}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) above shall have effect as if the reference to Part III of that Act were a reference to the ^{M42}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).

Marginal Citations

- M41** 1991 c. 22.

Status: Point in time view as at 06/01/1994.

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M42 1950 c. 39.

Warrant to exercise power

- 2 (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 or vessel of a power conferred by sections 169 to 172 of this Act; and
 - (b) that one or more of the conditions specified in sub-paragraph (2) below is fulfilled in relation to those premises or that vessel,
- the justice may by warrant authorise the relevant authority to designate a person who shall be authorised to exercise the power in relation to those premises, or that vessel, 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 power in relation to the premises or vessel has been refused;
 - (b) that such a refusal is reasonably apprehended;
 - (c) that the premises are unoccupied or the vessel is unoccupied;
 - (d) that the occupier is temporarily absent from the premises or vessel;
 - (e) that the case is one of urgency; or
 - (f) that an application for admission to the premises or vessel would defeat the object of the proposed entry.
- (3) A justice of the peace shall not issue a warrant under this Schedule by virtue only of being satisfied that the exercise of a power in relation to any premises or vessel 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 vessel; 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 Schedule to the powers conferred by section 171 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 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 Schedule shall continue in force until the purposes for which the warrant was issued have been fulfilled.

Manner of exercise of powers

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

Supplementary powers of person making entry etc.

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

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Duty to secure premises

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

Compensation

- 6 (1) Where any person exercises any power to which 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 power or of any power to take any person or equipment with him when entering the premises or vessel in relation to which the power is exercised; or
 - (b) the performance of, or failure of the designated person to perform, the duty imposed by paragraph 5 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 President of the Lands Tribunal where the relevant authority is one of the Ministers; and
 - (b) by one of the Ministers, where the Authority is the relevant authority.

Obstruction of person exercising power

- 7 A person who intentionally obstructs another person acting in the exercise of any power to which 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.

Interpretation

- 8 (1) In this Schedule—
- “relevant authority”, in relation to a power to which this Schedule applies, means one of the Ministers or the Authority, according to who is entitled, by virtue of the provision by which the power is conferred or, as the case may be, the warrant, to designate the person by whom the power may be exercised; and
- “sewerage services” has the same meaning as in the ^{M43}Water Industry Act 1991.

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- (2) References in this Schedule to a power to which this Schedule applies are references to any power conferred by Chapter II of Part VI of this Act, including a power exercisable by virtue of a warrant under this Schedule.
- (3) For the purposes of paragraphs 5 and 6 above a person enters any premises or vessel by virtue of a power to which 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 3 above.

Marginal Citations

M43 1991 c. 56.

SCHEDULE 21 **E+W**

Section 177.

CCOMPENSATION ETC. IN RESPECT OF CERTAIN WORKS POWER

Compensation in respect of street works powers

- 1 (1) This paragraph applies, in relation to the Authority, to the powers conferred on it in relation to streets by sections 159 and 162 of this Act.
- (2) It shall be the duty of the Authority—
- (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 Secretary of State.
- (4) Until the coming into force of Part III of the ^{M44}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 ^{M45}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).

Marginal Citations

M44 1991 c. 22.

Status: Point in time view as at 06/01/1994.

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M45 1950 c. 39.

Compensation in respect of pipe-laying works on private land

- 2
- (1) If the value of any interest in any relevant land is depreciated by virtue of the exercise by the Authority of any power to carry out pipe-laying works on private land, the person entitled to that interest shall be entitled to compensation from the Authority 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 the Authority 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 154 of this Act,he shall be entitled to compensation from the Authority 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 the Authority, of any power to carry out pipe-laying works on private land, the Authority 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 the Authority, 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 section 160 or 162(3) 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 Lands Tribunal; and in relation to the determination of any such compensation the provisions of sections 2 and 4 of the ^{M46}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.

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- (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;
 - (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.

Marginal Citations

M46 1961 c. 33.

Compensation in respect of discharges for works purposes

- 4 (1) It shall be the duty of the Authority—
- (a) to cause as little loss and damage as possible in the exercise of the powers conferred on it by section 163 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 sub-paragraph (1) above any extra expenditure—
- (a) which it becomes reasonably necessary for any water undertaker, sewerage undertaker or public authority (other than the Authority itself) to incur for the purpose of properly carrying out any statutory functions; and
 - (b) which is attributable to any discharge of water under section 163 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 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.

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Compensation in respect of flood defence and drainage works

- 5 (1) Where injury is sustained by any person by reason of the exercise by the Authority of any powers under section 165(1) to (3) of this Act, the Authority shall be liable to make full compensation to the injured party.
- (2) In case of dispute, the amount of any compensation under sub-paragraph (1) above shall be determined by the Lands Tribunal.
- (3) Where injury is sustained by any person by reason of the exercise by the Authority of its powers under subsection (1)(b) of section 167 of this Act—
- (a) the Authority may, if it thinks fit, pay to him such compensation as it may determine; and
 - (b) if the injury could have been avoided if those powers had been exercised with reasonable care, the provisions of sub-paragraphs (1) and (2) above shall apply as if the injury had been sustained by reason of the exercise by the Authority of its powers under section 165(1) to (3) of this Act.

Modifications etc. (not altering text)

C6 Sch. 21 para. 5(1)(2) applied (16.3.1992) by [Avon Weir Act 1992 \(c. v\), s. 7\(5\)](#) (with s. 61)

SCHEDULE 22 **E+W**

Section 178.

PROTECTION FOR PARTICULAR UNDERTAKINGS

Modifications etc. (not altering text)

C7 Sch. 22 applied (1.12.1991) by [Land Drainage Act 1991 \(c. 59, SIF 73:1\), ss. 67\(2\), 76\(2\)](#)

General provisions protecting undertakings

- 1 (1) Nothing in any of the provisions of this Act conferring power on the Authority 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) A consent for the purposes of sub-paragraph (1) above may be given subject to reasonable conditions but shall not be unreasonably withheld.
- (3) Subject to the following provisions of this Schedule, any dispute—

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- (a) as to whether anything done or proposed to be done interferes or will interfere as mentioned in sub-paragraph (1) above;
- (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.

- (4) The following are the undertakings protected by this paragraph, that is to say-
 - (a) the undertakings of the Civil Aviation Authority, the British Coal Corporation and the Post Office;
 - (b) the undertaking of any water undertaker or sewerage undertaker;
 - (c) any undertaking consisting in the running of a telecommunications code system, within the meaning of Schedule 4 to the ^{M47}Telecommunications Act 1984;
 - (d) any airport to which Part V of the ^{M48}Airports Act 1986 applies;
 - (e) the undertaking of any public gas supplier within the meaning of Part I of the ^{M49}Gas Act 1986;
 - (f) the undertaking of any person authorised by a licence under Part I of the ^{M50}Electricity Act 1989 to generate, transmit or supply electricity;
 - (g) the undertaking of any navigation authority, harbour authority or conservancy authority or of any internal drainage board;
 - (h) the undertaking of any railway company;
 - (i) any public utility undertaking carried on by a local authority under any Act or under any order having the force of an Act.
- (5) For the purposes of this paragraph any reference in this paragraph, in relation to any such airport as is mentioned in sub-paragraph (4)(d) above, to the persons carrying on the undertaking is a reference to the airport operator.
- (6) The reference in sub-paragraph (1) above to the provisions of this Act conferring power to carry out works includes (without prejudice to the extent of that reference apart from this sub-paragraph) a reference to any provisions of any order under section 108 of this Act by virtue of which any such power is conferred.

Marginal Citations

M47 1984 c. 12.
M48 1986 c. 31.
M49 1986 c. 44.
M50 1989 c. 29.

Protection for statutory powers and jurisdiction

- 2 (1) Subject to sub-paragraph (2) below, nothing in—

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- (a) any provision of this Act conferring power on the Authority to carry out any works; or
 - (b) any of the flood defence provisions of this Act,
- 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.
- (2) Nothing in this paragraph shall be taken to exclude the application of section 109 of this Act to any work executed by persons carrying on an undertaking protected by paragraph 1 above.
 - (3) Sub-paragraph (6) of paragraph 1 above shall apply for the purposes of sub-paragraph (1) above as it applies for the purposes of sub-paragraph (1) of that paragraph.
 - (4) This paragraph shall be without prejudice to any power under this Act to transfer the functions of any authority.

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 ^{M51}Highways Act 1980)—
 - (a) is under the control or management of, or is maintainable by, a railway company or a navigation authority; or
 - (b) forms part of a level crossing belonging to such a company or authority or to any other person,except with the consent of the company 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 ^{M52}New Roads and Street Works Act 1991.
- (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 the Authority 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.

Status: Point in time view as at 06/01/1994.

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- (6) The restrictions contained in paragraphs (1) to (5) of section 32 of the ^{M53}Tramways Act 1870 (protection of tramways) shall apply in relation to any exercise of a power conferred by the street works provision s—
- (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 sections 159 and 162(2) of this Act.
- (8) Until the coming into force of section 52 of the 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 ^{M54}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).

Marginal Citations

- M51** 1980 c. 66.
M52 1991 c. 22.
M53 1870 c. 78.
M54 1950 c. 39.

Protection for railways in connection with carrying out of flood defence functions

- 4 (1) Without prejudice to the preceding provisions of this Schedule, nothing in the flood defence provisions of this Act shall authorise any person, except with the consent of the railway company in question, to interfere with—
- (a) any railway bridge or any other work connected with a railway; or
 - (b) the structure, use or maintenance of a railway or the traffic on it.
- (2) A consent for the purposes of sub-paragraph (1) above may be given subject to reasonable conditions but shall not be unreasonably withheld.
- (3) Subject to the following provisions of this Schedule, any dispute—
- (a) as to whether anything interferes, or will interfere, as mentioned in sub-paragraph (1) above;
 - (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.

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Protection for telecommunication systems

- 5 Paragraph 23 of Schedule 2 to the ^{M55}Telecommunications Act 1984 (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to the Authority for the purposes of any works carried out by the Authority in exercise of any of the powers conferred by any enactment (including section 4(1) of this Act).

Marginal Citations

M55 1984 c. 12.

Interpretation

- 6 In this Schedule “railway company” means the British Railways Board, London Regional Transport or any other person authorised by any enactment, or by any order, rule or regulation made under any enactment, to construct, work or carry on a railway.

SCHEDULE 23 **E+W**

Section 182.

MINERAL RIGHTS

Acquisition of mineral rights

- 1 (1) This paragraph applies in each of the following cases, that is to say—
- (a) where the Authority acquires any land (whether compulsorily in exercise of any power conferred by or under this Act or otherwise); and
 - (b) where the Authority 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, the Authority 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 Authority unless express provision to the contrary is contained—
- (a) where the land vests in the Authority by virtue of a conveyance, in the conveyance; or
 - (b) where the land is acquired by the Authority in pursuance of any power of compulsory acquisition conferred by or under this Act, in the order authorising the acquisition.
- (3) The Authority 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 purpose of constructing, making, erecting or laying any part of its undertaking.

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Notice required for the working of underlying mines

- 2
- (1) If the owner of any mines or minerals underlying any part of the Authority'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 Authority.
 - (2) On receipt of a notice under sub-paragraph (1) above the Authority 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 Authority—
 - (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 Authority, and the Authority 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 Lands Tribunal.
 - (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 Authority, 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 the Authority 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 Authority 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.

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 Authority.
 - (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

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- or is situated on land acquired by the Authority 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 Authority 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.
- (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 the Authority’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 Authority 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 Authority 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 Authority’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 Authority 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 the Authority may, for any purpose specified in sub-paragraph (2) below—

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- (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 the Authority'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 Authority; and
 - (c) carrying out any works and taking any other steps which the Authority 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 Authority to the parts of the mines or the minerals which are, or are about to be, worked.
- (4) Schedule 20 to this Act shall apply in relation to the powers conferred by this paragraph as it applies to the powers conferred by sections 169 to 172 of this Act.

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 the Authority 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 ^{M56}Law of Property Act 1925;
 - “designated distance”, in relation to any part of the Authority'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 Authority's undertaking, means lying under, or within the designated distance from, that part of that undertaking.
- (2) For the purposes of this Schedule the Authority's undertaking shall be taken to consist of so much of any of the following as is for the time being vested in or held by the Authority 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

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- (b) any pipes or other underground works particulars of which fall or would fall to be incorporated in any records kept under section 195 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 the Authority in pursuance of powers of compulsory acquisition if it—
- (a) was so acquired by a water authority or any predecessor of a water authority; and
- (b) is now vested in the Authority in accordance with a scheme under Schedule 2 to the ^{M57}Water Act 1989 or otherwise.
- (5) In relation to any land treated by virtue of sub-paragraph (4) above as acquired in pursuance of powers of compulsory acquisition, 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—
- (a) any part of the Authority’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 Authority 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 (instead of the distance specified in subsection (1) above) shall be the designated distance in relation to that part of the undertaking.

Marginal Citations

M56 1925 c. 20.

M57 1989 c. 15.

SCHEDULE 24 **E+W**

Section 204.

DISCLOSURE OF INFORMATION

PART I E+W

PERSONS IN RESPECT OF WHOSE FUNCTIONS DISCLOSURE MAY BE MADE

Any Minister of the Crown.

The Director General of Fair Trading.

The Monopolies and Mergers Commission.

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The Director General of Telecommunications.

The Civil Aviation Authority.

The Director General of Gas Supply.

The Director General of Electricity Supply.

[^{F10}The Rail Regulator]

Textual Amendments

F10 Entry in Sch. 24 Pt. I inserted (6.1.1994) by 1993 c. 43, ss. 150(1)(o), 152(1), **Sch. 12 para.31**; S.I. 1993/3237, **art. 2(2)**.

A local weights and measures authority in England and Wales.

PART II **E+W**

ENACTMENTS ETC. IN RESPECT OF WHICH DISCLOSURE MAY BE MADE

The ^{M58}Trade Descriptions Act 1968.

Marginal Citations

M58 1968 c. 29.

The ^{M59}Fair Trading Act 1973.

Marginal Citations

M59 1973 c. 41.

The ^{M60}Consumer Credit Act 1974.

Marginal Citations

M60 1974 c. 39.

The ^{M61}Restrictive Trade Practices Act 1976.

Marginal Citations

M61 1976 c. 34.

The ^{M62}Resale Prices Act 1976.

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Marginal Citations

M62 [1976 c. 53.](#)

The ^{M63}Estate Agents Act 1979.

Marginal Citations

M63 [1979 c. 38.](#)

The ^{M64}Competition Act 1980.

Marginal Citations

M64 [1980 c. 21.](#)

The ^{M65}Telecommunications Act 1984.

Marginal Citations

M65 [1984 c. 12.](#)

The ^{M66}Airports Act 1986.

Marginal Citations

M66 [1986 c. 31.](#)

The ^{M67}Gas Act 1986.

Marginal Citations

M67 [1986 c. 44.](#)

The ^{M68}Consumer Protection Act 1987.

Marginal Citations

M68 [1987 c. 43.](#)

The ^{M69}Electricity Act 1989.

Marginal Citations

M69 [1989 c. 29.](#)

[^{F11}The Railways Act 1993]

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Textual Amendments

F11 Entry in Sch. 24 Pt. II inserted (6.1.1994) by 1993 c. 43, ss. 150(1)(o), 152(1), **Sch. 12 para.31**; S.I. 1993/3237, **art. 2(2)**.

Any subordinate legislation made for the purpose of securing compliance with the Directive of the Council of the European Communities dated 10th September 1984 (No.84/450/EEC) on the approximation of the laws, regulations and administrative provisions of the member States concerning misleading advertising.

SCHEDULE 25 E+W

Section 210.

BYELAW - MAKING POWERS OF THE AUTHORITY

Byelaws for regulating use of inland waters

- 1 (1) Subject to the following provisions of this paragraph but without prejudice to the powers conferred by the following provisions of this Schedule, where it appears to the Authority to be necessary or expedient to do so for the purposes of any of the functions specified in paragraphs (a), (c) and (d) of section 2(1) of this Act, the Authority may make byelaws—
- (a) prohibiting such inland waters as may be specified in the byelaws from being used for boating (whether with mechanically propelled boats or otherwise), swimming or other recreational purposes; or
 - (b) regulating the way in which any inland waters so specified may be used for any of those purposes.
- (2) Byelaws made by the Authority under this paragraph shall not apply to—
- (a) any tidal waters or any discrete waters;
 - (b) any inland waters in relation to which functions are exercisable by a navigation authority, harbour authority or conservancy authority other than the Authority; or
 - (c) any reservoir belonging to, and operated by, a water undertaker.
- (3) Byelaws made in respect of any inland waters by virtue of this paragraph may—
- (a) include provision prohibiting the use of the inland waters by boats which are not for the time being registered with the Authority in such manner as the byelaws may provide; and
 - (b) authorise the Authority to make reasonable charges in respect of the registration of boats in pursuance of the byelaws.

Byelaws for regulating the use of navigable waters etc.

- 2 (1) The Authority shall have power to make such byelaws as are mentioned in subparagraph (3) below with respect to any inland waters in relation to which—
- (a) there is a public right of navigation; and

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- (b) the condition specified in sub-paragraph (2) below is satisfied, and with respect to any land associated with such waters.
- (2) For the purposes of this paragraph the condition mentioned in sub-paragraph (1) above is satisfied in relation to any waters if navigation in those waters—
- (a) is not for the time being subject to the control of any navigation authority, harbour authority or conservancy authority; or
 - (b) is subject to the control of such a navigation authority, harbour authority or conservancy authority as is prescribed for the purposes of this paragraph by reason of its appearing to the Secretary of State to be unable for the time being to carry out its functions.
- (3) The byelaws referred to in sub-paragraph (1) above in relation to any inland waters or to any land associated with any such waters are byelaws for any of the following purposes, that is to say—
- (a) the preservation of order in or on any such waters or land;
 - (b) the prevention of damage to anything in or on any such waters or land or to any such land;
 - (c) securing that persons resorting to any such waters or land so behave as to avoid undue interference with the enjoyment of the waters or land by others.
- (4) Without prejudice to the generality of any of the paragraphs of sub-paragraph (3) above or to the power conferred on the Authority by virtue of paragraph 4 below, the byelaws mentioned in that sub-paragraph include byelaws—
- (a) regulating sailing, boating, bathing and fishing and other forms of recreation;
 - (b) prohibiting the use of the inland waters in question by boats which are not for the time being registered, in such manner as may be required by the byelaws, with the Authority;
 - (c) requiring the provision of such sanitary appliances as may be necessary for the purpose of preventing pollution; and
 - (d) authorising the making of reasonable charges in respect of the registration of boats for the purposes of the byelaws.
- (5) In this paragraph “boat” includes a vessel of any description, and “boating” shall be construed accordingly.

Byelaws for regulating the use of the Authority’s waterways etc.

- 3 (1) The Authority shall have power to make such byelaws as are mentioned in sub-paragraph (2) below with respect to any waterway owned or managed by the Authority and with respect to any land held or managed with the waterway.
- (2) The byelaws referred to in sub-paragraph (1) above in relation to any waterway or to any land held or managed with any such waterway are byelaws for any of the following purposes, that is to say—
- (a) the preservation of order on or in any such waterway or land;
 - (b) the prevention of damage to anything on or in any such waterway or land or to any such land;
 - (c) securing that persons resorting to any such waterway or land so behave as to avoid undue interference with the enjoyment of the waterway or land by others.

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- (3) Without prejudice to the generality of any of the paragraphs of sub-paragraph (2) above or to the power conferred on the Authority by virtue of paragraph 4 below, the byelaws mentioned in that sub-paragraph include byelaws—
- (a) regulating sailing, boating, bathing and fishing and other forms of recreation;
 - (b) prohibiting the use of the waterway in question by boats which are not for the time being registered, in such manner as may be required by the byelaws, with the Authority;
 - (c) requiring the provision of such sanitary appliances as may be necessary for the purpose of preventing pollution; and
 - (d) authorising the making of reasonable charges in respect of the registration of boats for the purposes of the byelaws.
- (4) In this paragraph—
- “boat” and “boating” have the same meanings as in paragraph 2 above; and
- “waterway” has the same meaning as in the National Parks and Access to the ^{M70}Countryside Act 1949.

Marginal Citations

M70 1949 c. 97.

Byelaws for controlling certain forms of pollution

- 4 (1) The Authority may by byelaws make such provision as the Authority considers appropriate—
- (a) for prohibiting or regulating the washing or cleaning in any controlled waters of things of a description specified in the byelaws;
 - (b) for prohibiting or regulating the keeping or use on any controlled waters of vessels of a description specified in the byelaws which are provided with water closets or other sanitary appliances.
- (2) In this paragraph—
- “controlled waters” has the same meaning as in Part III of this Act; and
- “sanitary appliance”, in relation to a vessel, means any appliance which—
- (a) not being a sink, bath or shower bath, is designed to permit polluting matter to pass into the water where the vessel is situated; and
 - (b) is prescribed for the purposes of this paragraph.

Byelaws for flood defence and drainage purposes

- 5 (1) The Authority may make such byelaws in relation to any particular locality or localities as it considers necessary for securing the efficient working of any drainage system including the proper defence of any land against sea or tidal water.

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- (2) Without prejudice to the generality of sub-paragraph (1) above and subject to sub-paragraph (3) below, the Authority may, in particular, make byelaws for any of the following purposes, that is to say—
 - (a) regulating the use and preventing the improper use of any watercourses, banks or works vested in the Authority or under its control or for preserving any such watercourses, banks or works from damage or destruction;
 - (b) regulating the opening of sluices and flood gates in connection with any such works as are mentioned in paragraph (a) above;
 - (c) preventing the obstruction of any watercourse vested in the Authority or under its control by the discharge into it of any liquid or solid matter or by reason of any such matter being allowed to flow or fall into it;
 - (d) compelling the persons having control of any watercourse vested in the Authority or under its control, or of any watercourse flowing into any such watercourse, to cut the vegetable growths in or on the bank of the watercourse and, when cut, to remove them.
- (3) No byelaw for any purpose specified in sub-paragraph (2)(a) above shall be valid if it would prevent reasonable facilities being afforded for enabling a watercourse to be used by stock for drinking purposes.
- (4) Notwithstanding anything in this Act, no byelaw made by the Authority under this paragraph shall conflict with or interfere with the operation of any byelaw made by a navigation authority, harbour authority or conservancy authority.
- (5) In this paragraph “banks” and “watercourse” have the same meanings as in Part IV of this Act.

Byelaws for purposes of fisheries functions

- 6 (1) The Authority shall have power, in relation to any part or parts of the area in relation to which it carries out its functions relating to fisheries under Part V of this Act, to make byelaws generally for the purposes of—
 - (a) the better execution of the ^{M71}Salmon and Freshwater Fisheries Act 1975; and
 - (b) the better protection, preservation and improvement of any salmon fisheries, trout fisheries, freshwater fisheries and eel fisheries.
- (2) Subject to paragraph 7(1) below, the Authority shall have power, in relation to any part or parts of the area mentioned in sub-paragraph (1) above, to make byelaws for any of the following purposes, that is to say—
 - (a) prohibiting the taking or removal from any water, without lawful authority, of any fish, whether alive or dead;
 - (b) prohibiting or regulating—
 - (i) the taking of trout or any freshwater fish of a size less than such as may be prescribed by the byelaw; or
 - (ii) the taking of fish by any means within such distance as is specified in the byelaw above or below any dam or any other obstruction, whether artificial or natural;

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- (c) prohibiting the use for taking salmon, trout, or freshwater fish of any instrument (not being a fixed engine) in such waters and at such times as may be prescribed by the byelaws;
 - (d) specifying the nets and other instruments (not being fixed engines) which may be used for taking salmon, trout, freshwater fish and eels, imposing requirements as to the use of such nets and other instruments and regulating the use, in connection with fishing with rod and line, of any lure or bait specified in the byelaw;
 - (e) authorising the placing and use of fixed engines at such places, at such times and in such manner as may be prescribed by the byelaws;
 - (f) imposing requirements as to the construction, design, material and dimensions of any such nets, instruments or engines as are mentioned in paragraphs (d) and (e) above, including in the case of nets the size of mesh;
 - (g) requiring and regulating the attachment to licensed nets and instruments of marks, labels or numbers, or the painting of marks or numbers or the affixing of labels or numbers to boats, coracles or other vessels used in fishing;
 - (h) prohibiting the carrying in any boat or vessel whilst being used in fishing for salmon or trout of any net which is not licensed, or which is without the mark, label or number prescribed by the byelaws; and
 - (i) prohibiting or regulating the carrying in a boat or vessel during the annual close season for salmon of a net capable of taking salmon, other than a net commonly used in the area to which the byelaw applies for sea fishing and carried in a boat or vessel commonly used for that purpose.
- (3) Subject to the provisions of Schedule 1 to the Salmon and Freshwater Fisheries Act 1975 (duty to make byelaws about close season), the Authority shall have power, in relation to any part or parts of the area mentioned in sub-paragraph (1) above, to make byelaws for any of the following purposes, that is to say—
- (a) fixing or altering any such close season or close time as is mentioned in paragraph 3 of that Schedule;
 - (b) dispensing with a close season for freshwater fish or rainbow trout;
 - (c) determining for the purposes of the Salmon and Freshwater Fisheries Act 1975 the period of the year during which gratings need not be maintained;
 - (d) prohibiting or regulating fishing with rod and line between the end of the first hour after sunset on any day and the beginning of the last hour before sunrise on the following morning;
 - (e) determining the time during which it shall be lawful to use a gaff in connection with fishing with rod and line for salmon or migratory trout;
 - (f) authorising fishing with rod and line for eels during the annual close season for freshwater fish.
- (4) Subject to paragraph 7(2) below, the Authority shall have power, in relation to any part or parts of the area mentioned in sub-paragraph (1) above, to make byelaws for the purpose of regulating the deposit or discharge in any waters containing fish of any liquid or solid matter specified in the byelaw which is detrimental to salmon, trout or freshwater fish, or the spawn or food of fish.
- (5) The Authority shall have power, in relation to any part or parts of the area mentioned in sub-paragraph (1) above, to make byelaws for the purpose of requiring persons to send to the Authority returns, in such form, giving such particulars and at such times as may be specified in the byelaws—

Status: Point in time view as at 06/01/1994.

Changes to legislation: Water Resources Act 1991 is up to date with all changes known to be in force on or before 17 June 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)

- (a) of the period or periods during which they have fished for salmon, trout, freshwater fish or eels,
 - (b) of whether they have taken any; and
 - (c) if they have, of what they have taken.
- (6) Byelaws made under this paragraph may be made to apply to the whole or any part or parts of the year.
- (7) Expressions used in this paragraph and in the ^{M72}Salmon and Freshwater Fisheries Act 1975 have the same meanings in this paragraph as in that Act.

Modifications etc. (not altering text)

C8 Sch. 25 para. 6 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), Sch. 3 Pt. I para.9 (with s. 46).

Marginal Citations

M71 1975 c. 51.

M72 1975 c. 51.

VALID FROM 21/09/1995

[^{F12} Fisheries byelaws for marine or aquatic environmental purposes]

Textual Amendments

F12 Sch. 25 para. 6A inserted (21.9.1995) by 1995 c. 25, s. 103(3) (with ss. 7(6), 115, 117); S.I. 1995/1983, art. 3

^{F13}6A (1) Any power to make byelaws conferred by paragraph 6 above may be exercised for marine or aquatic environmental purposes.

(2) The power to make byelaws under paragraph 6 above by virtue of this paragraph is in addition to, and not in derogation from, the power to make byelaws under that paragraph otherwise than by virtue of this paragraph.

(3) In this paragraph “marine or aquatic environmental purposes” means—

- (a) the conservation or enhancement of the natural beauty or amenity of marine or coastal, or aquatic or waterside, areas (including their geological or physiographical features) or of any features of archaeological or historic interest in such areas; or
- (b) the conservation of flora or fauna which are dependent on, or associated with, a marine or coastal, or aquatic or waterside, environment.]

Textual Amendments

F13 Sch. 25 para. 6A inserted (21.9.1995) by 1995 c. 25, s. 103(3) (with ss. 7(6), 115, 117); S.I. 1995/1983, art. 3

Status: Point in time view as at 06/01/1994.

Changes to legislation: Water Resources Act 1991 is up to date with all changes known to be in force on or before 17 June 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)

Restrictions on powers to make byelaws for fisheries purposes

- 7 (1) The Authority shall not make any byelaws by virtue of paragraph 6(2)(e) above in relation to any place within the sea fisheries district of a local fisheries committee except with the consent of that committee.
- (2) The Authority shall not make byelaws by virtue of paragraph 6(4) above so as to prejudice any powers of a sewerage undertaker to discharge sewage in pursuance of any power given by a public general Act, a local Act or a provisional order confirmed by Parliament.

SCHEDULE 26 **E+W**

Section 210.

PROCEDURE RELATING TO BYELAWS MADE BY THE AUTHORITY

Confirmation of byelaws

- 1 (1) No byelaw made by the Authority shall have effect until confirmed by the relevant Minister under this Schedule.
- (2) At least one month before it applies for the confirmation of any byelaw, the Authority 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 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 the Authority for the confirmation of any byelaw, a copy of it shall be deposited at one or more of the offices of the Authority, including (if there is one) at an office in the area to which the byelaw would apply.
- (4) The Authority 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 the Authority, to be furnished free of charge with a printed copy of a byelaw so deposited.

Confirmation with or without modifications

- 2 (1) Subject to sub-paragraph (3) below, the relevant Minister, with or without a local inquiry, may refuse to confirm any byelaw submitted to him by the Authority for confirmation under this Schedule, or may confirm the byelaw either without or, if the Authority consents, with modifications.

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- (2) The Authority shall, if so directed by the relevant Minister, cause notice of any proposed modifications to be given in accordance with his directions.
- (3) A byelaw made by the Authority under paragraph 4 of Schedule 25 to this Act shall be confirmed without a local inquiry only if—
 - (a) no written objection to its confirmation has been received by the relevant Minister;
 - (b) every objection to its confirmation which has been so received has been withdrawn; or
 - (c) in the opinion of that Minister the person making the objection has no material interest in the controlled waters to which the byelaw relates;and in relation to any such byelaw sub-paragraph (1) above shall have effect with the substitution for the words “if the Authority consents” of the words “after consultation with the Authority” .

Commencement of byelaw

- 3 (1) The relevant Minister may fix the date on which any byelaw confirmed under this Schedule is to come into force.
- (2) If no date is so fixed in relation to a byelaw, it 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 the Authority and confirmed under this Schedule shall be printed and deposited at one or more of the offices of the Authority, 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 the Authority and on payment of such reasonable sum as the Authority may determine, to be furnished with a copy of any byelaw so deposited by the Authority.

Revocation of byelaws

- 5 If it appears to the relevant Minister that the revocation of a byelaw is necessary or expedient, he may—
 - (a) after giving notice to the Authority and considering any representations or objections made by the Authority; and
 - (b) if required by the Authority, after holding a local inquiry, revoke that byelaw.

Modifications etc. (not altering text)

- C9** Sch. 26 para. 5 amended (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(2), 4(2), **Sch. 2 Pt. I para. 4(4)**

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Proof of byelaws

- 6 The production of a printed copy of a byelaw purporting to be made by the Authority upon which is indorsed a certificate, purporting to be signed on its behalf, stating—
- (a) that the byelaw was made by the Authority;
 - (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 force 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.

Meaning of “the relevant Minister”

- 7 In this Schedule “the relevant Minister”—
- (a) in relation to byelaws which—
 - (i) are made by virtue of paragraph 5 of Schedule 25 to this Act or by virtue of section 136(8) of the ^{M73}Water Act 1989 as read with the savings in paragraphs 1 and 5 of Schedule 2 to the ^{M74}Water Consolidation (Consequential Provisions) Act 1991 (transfer of land drainage functions under local statutory provisions); and
 - (ii) have effect in the area of a regional flood defence committee the whole or the greater part of whose area is in England,

means the Minister;
 - (b) in relation to byelaws made by virtue of paragraph 6 of that Schedule 25 or by virtue of any provision amended by Schedule 17 to the Water Act 1989 (fisheries functions of the Authority), means the Secretary of State or the Minister; and
 - (c) in relation to any other byelaws, means the Secretary of State.

Marginal Citations

M73 1989 c. 15.

M74 1991 c. 60.

E+W

TABLE OF DERIVATIONS

- 1 Note: The following abbreviations are used in this Table:—

1945 =	The Water Act 1945 (c. 42)
1963 =	The Water Resources Act 1963 (c. 38)

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1965 =	The Science and Technology Act 1965 (c. 4)
1973 =	The Water Act 1973 (c. 37)
1975 =	The Salmon and Freshwater Fisheries Act 1975 (c. 51)
1976 =	The Land Drainage Act 1976 (c. 70)
1977 =	The Criminal Law Act 1977 (c. 45)
1980(LG) =	The Local Government, Planning and Land Act 1980 (c. 65)
1981 =	The Water Act 1981 (c. 12)
1982(CJA) =	The Criminal Justice Act 1982 (c. 43)
1983 =	The Water Act 1983 (c. 23)
1984 =	The Telecommunications Act 1984 (c. 12)
1985(LG) =	The Local Government Act 1985 (c. 51)
1986(GA) =	The Gas Act 1986 (c. 44)
1989 =	The Water Act 1989 (c. 15)
1989(EA) =	The Electricity Act 1989 (c. 29)
1990 =	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).

2 Transfer of functions orders (“TFOs”), where applicable in relation to a provision re-enacted in the Bill, are specified at the appropriate place in column 2 of the Table.

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.

Provision of Act	Derivation
1	1989 s. 1.
2	1963 s. 126(3) & (4); 1989 s. 1(1), 8(4) & (5), 136(7) & (8), 141(4) & (7), 142(1) & 143(1), 189(1) (definition of “function”) & Sch 13 paras 23(3) & 27.

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3	1989 s. 188.
4	1989 s. 144 & 145(1)(a) & (b), (2) & (3).
5	1989 s. 146; Sch 12 paras 4(7) & 6(4).
6	1989 s. 3.
7	1989 s. 2.
8	1989 s. 141(1)(b) & (c), (2) & (3).
9	1989 ss. 136(6) & (7) & 137(1)–(2).
10	1989 s. 137(3), (7), (10) & (11) & 138(1) & (8).
11	1989 ss. 137(11) & 138(2)–(7) & (9).
12	1976 s. 4; 1989 s. 139(1) and Sch 15 paras 1 & 2. TFO: SI 1978/272 Sch 3, para 7(2); R: 6.
13	1976 s. 5(1)–(6) & (8); 1985(LG) Sch 7 para 2 & SI 1986/208 Sch 1 Pt II para 2; 1989 Sch 15 paras 1 & 3.
14	1976 s. 5(7); 1989 ss. 137(8) & 139(3) & Sch 15 para 1.
15	1989 s. 7(6) & (7).
16	1989 ss. 8(1)–(3), (5)–(7) & 152(8).
17	1989 s. 9; 1990 Sch 9 para 17(2).
18	1989 s. 10; 1990 Sch 9 para 17(3).
19	1989 s. 125.
20	1989 s. 126.
21	1963 ss. 19(1), (3)–(7) & 135(1)(part) & (5); 1973 Sch 8 para 85; 1989 s. 127; 1989(EA) Sch 16 para 10; TFOs: SI 1965/145 Sch 1; SI 1970/1537 Art 2(1); SI 1970/1681 Sch 3 para 9(1); SI 1974/692 Sch 1 Pt III; SI 1983/1127 Art 2(3).
22	1963 s. 19(2) & (6); 1989 s. 127(2) & (5).
23	1963 s. 22; 1973 s. 9; 1989 Sch 13 paras 1 and 4.
24	1963 ss. 23, 49 & 128(1); 1976 (c. 44) s. 5(8); 1989 Sch 13 paras 1 & 5 & Sch 25 para 2.

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25	1963 ss. 36(1)–(3), (5) & (6), 48, 49 & 128(1); 1976 (c. 44) s. 5(8); 1989 Sch 13 paras 1, 12 & 16 & Sch 25 para 2.
26	1963 s. 24(6) & 36(4).
27	1963 s. 24(1)–(3) & (5) & 26(1)(b); 1989 Sch 13 para 6.
28	1963 ss. 24(2)(proviso) & 55; 1973 s. 9; 1989 Sch 13 para 1.
29	1963 s. 24(4), (5) & (10); 1973 Sch 8 para 78.
30	1963 s. 78(1)–(3) & (7); 1973 s. 9; 1989 Sch 13 paras 1 & 20.
31	1963 s. 78(4)–(6).
32	1963 s. 24(7)–(9); 1973 s. 9; 1989 Sch 13 para 1.
33	1963 ss. 25 & 134(4); 1973 s. 9; 1989 Sch 13 paras 1 & 7.
34	1963 s. 54(1)–(3) & (5).
35	1963 s. 27; 1968 (c. 35) s. 1; 1973 s. 9; 1989 Sch 13 para 1.
36	1963 s. 37(3); 1973 s. 9; 1989 Sch 13 para 1.
37	1963 ss. 28 & 37(5); 1973 s. 9; 1989 Sch 13 paras 1 & 8.
38	1963 ss. 28(3) (part), 29(3) & (8) & 37(5); 1973 s. 9; 1989 Sch 13 para 1.
39	1963 ss. 26(1) & (2), 29(2) & (7)(a), 36(6), 37(5) & 135(5); 1973 s. 9; 1989 Sch 13 paras 1 & 9(1).
40	1963 ss. 29(4)–(6) & (7)(b) & 37(5); 1973 s. 9; 1989 Sch 13 paras 1 & 9(2).
41	1963 s. 38(1) & (2); 1973 s. 9 & Sch 8 para 79; 1989 Sch 13 paras 1 & 13.
42	1963 ss. 38(3) & (4) & 41(1)–(4) & (7)–(9); 1973 s. 9; 1989 Sch 13 paras 1 & 14(2).
43	1963 ss. 39(1), (2) & (4) & 40; 1973 s. 9; 1989 Sch 13 para 1.
44	1963 ss. 39(3)–(6), 40 & 41(1), (5) & (7)–(9); 1989 Sch 13 paras 1 & 14(1).
45	1963 s. 54(2), (3) & (5).

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46	1963 s. 30(1)–(3) & (5)–(7) & 54(4); 1973 s. 9; 1989 Sch 13 paras 1 & 10.
47	1963 ss. 30(4), 31(4) & 37(1).
48	1963 ss. 26(1)(a), 31(1) & (3) & 37(2).
49	1963 s. 32(1), (2), (6) & (7); 1973 s. 9; 1989 Sch 13 paras 1 & 11.
50	1963 s. 32(3), (4), (6) & (7); 1973 s. 9; 1989 Sch 13 para 1.
51	1963 s. 42; 1973 s. 9; 1989 Sch 13 para 1.
52	1963 s. 43(1)–(5) & (9); 1973 s. 9; 1989 Sch 13 para 1.
53	1963 s. 43(5)–(8); 1973 s. 9; 1989 Sch 13 para 1.
54	1963 s. 44; 1973 s. 9; 1989 Sch 13 para 1.
55	1963 s. 47(1)–(3) & (11); 1973 s. 9; 1989 Sch 13 para 1.
56	1963 s. 47(3)–(5); 1973 s. 9; 1989 Sch 13 para 1.
57	1963 s. 45; 1973 s. 9; 1989 Sch 13 paras 1 & 15.
58	1963 s. 64; 1989 Sch 13 para 19.
59	1963 s. 54(2) & (5).
60	1963 s. 50; 1973 s. 9; 1989 Sch 13 para 1.
61	1963 ss. 46 & 47(6); 1973 s. 9; 1989 Sch 13 para 1.
62	1963 ss. 47(7)–(10) & 71(3); 1973 s. 9; 1989 Sch 13 para 1.
63	1963 s. 51; 1973 s. 9; 1989 Sch 13 para 1.
64	1963 ss. 43(1) & 52; 1973 s. 9; 1989 Sch 13 para 1.
65	Introduces Sch 7
66	1963 s. 131(1), (2) & (8) & 134(4); 1989 Sch 13 para 29; TFOs: SI 1965/319; SI 1970/1681.
67	1963 s. 132; 1989 Sch 13 para 30.
68	1963 ss. 116 & 134(4) & (6); TFOs: SI 1965/319 Sch 3 para 2.

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69	1963 s. 117; 1973 s. 9; 1989 Sch 13 para 1.
70	1963 s. 135(8); IA s. 17.
71	1963 ss. 133(2)–(4), 134(4) & (6) & 135(1).
72	1963 ss. 105, 134(4) & (6) & 135(1), (3), (6) & (7); 1973 Sch 8 para 86; 1989 Sch 13 para 31(1)(e) & (3).
73	1989 ss. 131(1), (2) & (8) & 132(1), (2) & (9).
74	1989 ss. 131(3)–(4) & (9) & 133(7)(b) & (c).
75	1989 ss. 132(3), (4), (6), (7) & (10) & 133(7)(b) & (c).
76	1989 ss. 131(5)–(7) & 132(5).
77	1963 s. 128(2); 1989 ss. 133(1)–(4) & 135(1) & Sch 13 para 28.
78	1989 ss. 132(8) & 133(5), (6) & (7)(a); 1991(NR) Sch 8 para 116(2).
79	1989 ss. 131(8), 132(9) & 133(8) & Sch 14 para 4.
80	1989 s. 134.
81	1989 s. 135(2).
82	1989 s. 104.
83	1989 s. 105.
84	1989 s. 106.
85	1989 s. 107(1) & (6); 1990 s. 145(1).
86	1989 s. 107(2)–(4).
87	1989 s. 107(5) & 108(7) & (8).
88	1989 s. 108(1) & (9) & 113(1) & Sch 19 para 8(7); 1990 Sch 15 para 29.
89	1989 ss. 108(2)–(6) & 124(1).
90	1989 s. 109.
91	1989 Sch 12 para 8.
92	1989 s. 110.
93	1989 s. 111(1)–(3) & (5).
94	1989 s. 112(1), (4)–(7) & (9).
95	1989 s. 112(2), (3) & (9).
96	1989 s. 111(4) & 112(8).

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97	1989 s. 116.
98	1989 s. 123.
99	1989 s. 113(2) & (3).
100	1989 s. 122.
101	1989 s. 121(2).
102	1989 s. 171.
103	Introduces Sch 13.
104	1989 ss. 103(1), (2) (part) & (4) to (6) & 124.
105	1976 s. 113; 1989 s. 136(1).
106	1989 s. 136(3)–(5) & (9).
107	1976 ss. 8(1), 18, 24(2) & (3), 26; 1989 Sch 15 paras 1 & 9(1).
108	1976 ss. 10(1), (3) & (4), 94, 109(1), (5) (b) & (6) & 116(1); 1989 Sch 15 para 1; SI 1991/983; TFO: SI 1978/272 Sch 3 para 7(5) & (8).
109	1976 s. 29(1), (2), (4), (6) & (7); 1989 Sch 15 para 1.
110	1976 ss. 29(2A), (3), (5) & (9) & 109(1) & (2); 1989 Sch 15 paras 1, 13 & 35; TFO: SI 1978/272 Sch 3 para 7(3).
111	1976 s. 23(2)–(5); 1984 Sch 4 para 66(1); 1989 Sch 15 paras 1 & 8; TFO: SI 1978/272 Sch 3 para 7(4) & (6).
112	1976 s. 95; TFO: SI 1978/272 Sch 3 para 7.
113	1976 s. 8(2) & (3) 114(1) & 116; 1989 Sch 15 para 1; TFO: SI 1978/272 Sch 3 para 7(5).
114	1989 s. 141(1)(a).
115	1975 s. 28(3)–(6) & Sch 3 paras 7–9 & 13; 1989 Sch 17 paras 1 & 7(7)(a) & (14)(a) & (b); TFO: SI 1978/272 Sch 3 para 6.
116	1989 s. 171.
117	1989 Sch 1 para 15(1)–(3) & (5).
118	1989 Sch 1 para 15(4) & 16.
119	1963 s. 88 & 1989 Sch 1 para 15(4) & Sch 13 para 1.

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120	1963 s. 91 & 135(1) & (2); 1989 Sch 13 paras 1, 24 & 31; TFOs: SI 1976/1775; SI 1979/571 Art 3(5); SI 1981/238 Arts 2 & 3(4); R: 16.
121	1989 Sch 1 para 21.
122	1989 Sch 1 para 22.
123	1989 s. 129(1)–(3) & (7)–(9).
124	1989 s. 129(3)–(6).
125	1963 s. 60(5A) & (6); 1973 s. 9 & Sch 8 para 80(3); 1989 Sch 13 paras 1 & 18(2) & (3).
126	1963 ss. 60(1)–(5), 116 & 117; 1973 s. 9 & Sch 8 para 80(1); 1989 Sch 13 paras 1 & 18(1); TFOs: SI 1965/319 Sch 3 para 2 & SI 1970/1681.
127	1963 s. 63(1)–(3), (8), (10) & (11); 1973 s. 9; 1989 Sch 13 para 1.
128	1963 s. 63(4)–(6); 1973 s. 9; 1989 Sch 13 para 1.
129	1963 ss. 63(7), 116 & 117.
130	1963 s. 131(6) & (7); 1973 s. 9; 1989 Sch 13 para 1; TFOs: SI 1965/319; SI 1970/1681.
131	1989 Sch 12 para 9(1)–(3), (7) & (8).
132	1989 Sch 12 para 9(3)–(6).
133	1989 Sch 25 para 80(1).
134	1976 ss. 48 & 89(2); SI 1978/319 Sch para 2; 1989 Sch 15 paras 1 & 20; SI 1990/214 reg 2.
135	1976 s. 49 & 109(1) & (2); SI 1978/319 Sch para 3; 1989 Sch 15 paras 1 & 21. SI 1990/214 regs 3 & 4; TFO: SI 1978/272 Sch 3 para 7(5).
136	SI 1990/214 reg 3.
137	1976 ss. 50(1)–(4) & (9) & 116(4); 1989 Sch 15 paras 1 & 22; TFO: SI 1978/272 Sch 3 para 7(5).
138	1976 ss. 51 & 109(1) & (3); SI 1978/319 Sch para 4; 1989 Sch 15 paras 1 & 23.
139	1976 s. 84(1)–(3) & (5); 1989 Sch 15 para 1; SI 1990/72 reg 3A(1); SI 1991/523 reg 3.

Status: Point in time view as at 06/01/1994.

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140	1976 s. 84(5)–(8); 1989 Sch 15 para 1; TFO: SI 1978/272 Sch 3 para 7(4).
141	1976 s. 85; 1989 Sch 15 para 1; TFO: SI 1978/272 Sch 3 para 7(4).
142	1975 s. 28(3)(a) & (b); 1989 Sch 17 para 7(7)(a).
143	1976 s. 88(1), (2) & (5); 1989 Sch 15 paras 1 & 29.
144	1989 ss. 145(1)(c) & 189(1).
145	1976 ss. 89(1) & 116(1); SI 1978/319 Sch para 6; 1989 Sch 15 paras 1 & 30.
146	1989 Sch 1 para 17.
147	1976 s. 90(1)–(5); 1989 Sch 15 para 1; TFO: SI 1978/272 Sch 3 para 7(3).
148	1976 ss. 32(5) & 92; 1989 Sch 15 para 1; TFO: SI 1978/272 Sch 3 para 7(3).
149	1976 s. 90(6) & (7); 1989 Sch 15 paras 1 & 31; TFO: SI 1978/272 Sch 3 para 7(3).
150	1989 s. 170(7) & (8).
151	1989 Sch 1 para 18.
152	1989 Sch 1 para 19.
153	1989 s. 184 & Sch 1 para 20.
154	1989 s. 151.
155	1976 ss. 36 & 116; 1989 Sch 15 paras 1 & 16; TFO SI 1978/272 Sch 3 para 7(3).
156	1975 Sch 3 paras 37 and 38; 1989 Sch 17 paras 1 and 7(14)((e) & (f).
157	1989 s. 152.
158	1963 ss. 81 & 135(1); 1972 (c. 61) s. 18(6); 1973 s. 9; 1989 Sch 13 paras 1 & 22.
159	1989 s. 154(1) & (5) & Sch 19 paras 1 & 2(1), (2) & (8).
160	1989 Sch 19 paras 1 & 4(1), (4) & (5).
161	1989 ss. 115, 122 & 124.
162	1989 s. 154(1), (3) & (4) & Sch 19 paras 1(2), 2(1)(c) & (d) & 4(1)(c) & (d).

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163	1989 Sch 19 para 8(1), (5), (6) & (8); R: 17.
164	1989 s. 176 & Sch 19 para 9(1) & (3)–(8) & Sch 26 para 43.
165	1976 ss. 8(2), 17, 22, 23(1), 90(7) & 116(4); 1989 Sch 15 paras 1 & 5.
166	1976 s. 32; 1989 Sch 15 paras 1 & 14.
167	1976 s. 33(1)–(3) & (5); 1989 Sch 15 para 1; 1990 Sch 15 para 18.
168	1975 Sch 3 para 37; 1989 ss. 155 & 157(1) & Sch 17 para 7(4)(e).
169	1989 s. 147(1), (2) & (4).
170	1989 Sch 19 para 10(1)–(3).
171	1989 s. 156(1)–(5).
172	1989 s. 147(1), (2) & (4).
173	Introduces Sch 20.
174	1989 s. 180.
175	1989 s. 153(2) & (6).
176	1989 s. 167.
177	Introduces Sch 21.
178	Introduces Sch 22.
179	1989 s. 160(4)–(7) & (9).
180	1976 s. 106; 1989 Sch 15 para 1.
181	1975 s. 38; 1976 s. 115; 1989 Sch 17 para 1 & Sch 19 para 7.
182	1989 s. 159.
183	1976 s. 111; 1979 (c. 46) Sch 4 para 16; 1989 s. 163; 1990 (c. 11) Sch 2 para 81(2).
184	1989 s. 157(2) & (3).
185	1976 s. 24(1) & 26(12); 1989 Sch 15 para 1.
186	1989 Sch 19 paras 1 & 11.
187	1989 s. 150.
188	1989 s. 143(2).
189	1963 s. 53; 1973 s. 9; 1989 Sch 13 paras 1 & 17.
190	1989 s. 117 & 121; 1990 Sch 15 para 30.

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191	1989 Sch 19 para 9(2) & (8).
192	1989 s. 103(2) & (3).
193	1976 s. 9(1), (7), (8), (10) & (11); 1989 Sch 15 paras 1 & 4 & Sch 26 para 38; TFO: SI 1978/272 Sch 3 para 7(5).
194	1976 s. 9(3), (5) & (6); 1989 Sch 15 paras 1 & 4; TFO: SI 1978/272 Sch 3 para 7(5).
195	1989 s. 165.
196	1989 s. 149.
197	1989 s. 130.
198	1945 s. 7(1)–(5) & (7); 1965 Sch 2; 1977 Sch 1.
199	1963 s. 78(2)–(3) & (7); 1973 s. 9; 1989 Sch 13 paras 1 & 20.
200	1963 s. 17; 1973 s. 9; 1982(CJA) s. 38; 1989 Sch 13 paras 1 & 3.
201	1963 s. 114; 1973 s. 9; 1982(CJA) s. 38; 1989 Sch 13 para 1.
202	1989 ss. 118 & 121.
203	1989 s. 119.
204	1989 s. 174; R: 11.
205	1945 ss. 7(6) & (7) & 48(6); 1949 (c. 11) s. 1(1); 1977 Sch 1; TFOs: SI 1951/142 Sch; SI 1951/1900 art 1; SI 1965/319 Sch 3; SI 1970/1681 Sch 1.
206	1945 s. 45; 1963 s. 115; 1989 s. 175.
207	1989 s. 170(1)–(6) & (9).
208	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) Sch 2 para 46; 1991(NR) Sch 8 para 106.
209	1963 s. 31(5); 1989 s. 148.
210	1975 s. 28(6) & (8); 1989 s. 186 & Sch 17 para 7(7)(b).
211	1963 ss. 79(8) & (9) & 135(8); 1975 s. 28(7) & Sch 4 Pt I para 1(2); 1976 s. 34(4) & (5); 1977 Sch 6; 1982(CJA) s. 38; 1989 ss. 114(2), 121, 122 & 158(4) (d).
212	1975 Sch 3 paras 17 & 18; 1989 Sch 17 para 1; TFO: SI 1978/272 Sch 3 para 6.

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213	1963 s. 109(1); 1973 s. 9; 1989 s. 120 & Sch 13 para 1; TFOs: SI 1965/319 Sch 3 para 2; SI 1978/272 Sch 3 para 2(7).
214	1976 s. 96; 1982(CJA) s. 38; 1986 (c. 63) s. 42; TFO: SI 1978/272 Sch para 7.
215	1963 s. 109(2); 1989 s. 181 & Sch 13 para 26 & Sch 17 para 7(16).
216	1963 s. 118(1) & (2); 1973 s. 9; 1989 Sch 13 para 1.
217	1963 s. 118(3) & (4); 1989 ss. 121(1) & 177; R: 13.
218	1989 ss. 182 & 189(1) (definition of “services”).
219	1963 s. 134; 1989 ss. 185 & 189(1) (definition of “prescribed”).
220	1945 s. 56; 1963 s. 120; 1989 s. 187 & Sch 25 para 7(10); R: 14.
221	1945 s. 59(1) (definition of “owner”); 1963(L) Sch 14 para 10; 1963 ss. 2, 19(7), 120(5) & 135; 1976 ss. 32(5) & 116; 1981 s. 6(7)(b); 1985(LG) Sch 7 para 9; 1989 ss. 124, 127(6), 130(8), 135(1), 189 & 191(6) & Sch 13 paras 2 & 31 & Sch 15 para 38; 1990 (c. 11) Sch 2 para 81(1); 1991(NR) Sch 8 para 116(3). R: 6, 15, 16 & 20.
222	1963 s. 123(1) & (5); 1976 s. 115; 1989 s. 192; 1990 (c. 11) Sch 2 para 81(3).
223	1963 s. 123(1) & (5).
224	1989 s. 193.
225	1989 ss. 141(6) & 194.
Sch 1	1963 s. 120(5); 1976 s. 35; 1989 Sch 1, Pt I, paras. 1-10 & 14 & Sch 15 para 1.
Sch 2	1963 ss. 82, 106, 133(2)–(4), 134(4) & 135(1) & (2) & Sch 10; 1973 s. 9 & Sch 8 para 83; 1989 Sch 13 paras 1, 23, 25 & 33; TFOs: SI 1976/1775 Sch 3 para 7; SI 1979/571 Art 3(5); SI 1981/238 Arts 2 & 3(4); R: 16.
Sch 3	1989 Sch 16.
Sch 4	1976 Sch 1; 1982 (c. 32) Sch 5 para 7; 1983 Sch 4 paras 5 & 6; 1985 (c. 65)

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	Sch 8, para 29; 1989 Sch 15 paras 1 & 39; TFO: SI 1978/272 Sch 3 para 7(5).
Sch 5	1963 s. 135(1) & Sch 7; 1973 s. 9; 1989 Sch 13 paras 1 and 32; 1989(EA) Sch 16 para 10; TFOs: SI 1970/1681 Sch 3 para 9(1); 1983/1127 Art 2(3).
Sch 6	1963 ss. 25(5)–(8) & 135(1) & Sch 7; 1973 s. 9; 1989 Sch 13 paras 1 and 32; 1989(EA) Sch 16 para 10; TFOs: SI 1965/145 Sch 1; SI 1970/1537 art 2(1); SI 1970/1681 Sch 3 para 9; SI 1974/692 Sch 1 Pt III; SI 1983/1127 Art 2(3); R: 4.
Sch 7	1963 ss. 46(3) & 50(4) & (5); 1989 Sch 26 paras 30–33.
Sch 8	1989 Sch 14 paras. 1–3.
Sch 9	1989 s. 135(1) & Sch 14 paras. 5–8.
Sch 10	1989 s. 176 & Sch 12 paras 1–7.
Sch 11	1989 Sch 7.
Sch 12	1989 Sch 11.
Sch 13	1989 Sch 26 Pt III.
Sch 14	1976 s. 10(2) & (3) & 109(5)(b) and Sch 3 paras 1–4 and 9–14; TFO: SI 1978/272 Sch 3 para 7(12).
Sch 15	1976 ss. 52–61; 1989 Sch 15 paras 1, 24 & 25; SI 1978/319 Sch 5 para 5; SI 1990/214 Reg 5; TFO: SI 1978/272 Sch 3 para 7(5).
Sch 16	1976 ss. 50(4)–(8) & 109(6); 1989 Sch 15 para 1; SI 1991/983; TFO: SI 1978/272 Sch 3 para 7(5).
Sch 17	1976 ss. 88(3) & (4) & 109(1), (4) & (5) & Sch 3 paras 5 to 8.
Sch 18	1989 Sch 18.
Sch 19	1989 Sch 20.
Sch 20	1989 ss. 147(3), 156(6) 178 & 179 & Sch 19 para 10(4) & (5); 1991(NR) Sch 8 para 116(4).
Sch 21	1976 ss. 17(5) & 33(4); 1989 Sch 15 para 1 & Sch 19 paras 2(4)–(6), 6 & 8(2)–(4).
Sch 22	1976 ss. 29(8) & 112; 1984 Sch 4 para 66(2); 1984 (c. 32) Sch 6 para 12; 1986 (c. 31) Sch 2 para 5; 1986 (c. 44) Sch

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	7 para 25; 1987 (c. 3) Sch 1 para 32; 1989 s. 160(1)–(3), (6) & (8) & Sch 15 para 37 & Sch 19 paras 2(9) & 3; 1989 (c. 29) Sch 16 paras 21 & 37; 1991(NR) Sch 8 para 116(4); R: 17.
Sch 23	1989 Sch 21.
Sch 24	1989 s. 174(2)(d) & (3).
Sch 25	1963 s. 79(3)–(6); 1973 s. 9; 1975 Sch 3 paras 14–16 & 19–36; 1976 s. 34; 1986 (c.62) s. 33(3); 1989 ss. 114, 158, Sch 13 para 21, Sch 15 para 15(1) & Sch 17 para 7(14)(c) & (d); R: 5.
Sch 26	1989 Sch 24.

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