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SCHEDULES

PROSPECTIVE

SCHEDULE 5

Section 5

EXTENSION OF LICENSING PROVISIONS IN RELATION TO WALES

- 1 The Water Industry Act 1991 is amended as follows.
- 2 In section 2 (general duties with respect to water industry) (as amended by Schedule 7)—
 - (a) in subsection (2C)—
 - (i) after paragraph (d) there is inserted “and”;
 - (ii) paragraph (f) and the “and” preceding it are repealed;
 - (b) subsection (2D) is repealed.
- 3 In section 2B (strategic priorities and objectives: Wales) (as inserted by section 24 and amended by Schedule 7), in subsection (4)(d), after “water supply licensees” there is inserted “ and sewerage licensees ”.
- 4 (1) Section 17A (water supply licences) (as substituted by section 1) is amended as follows.
 - (2) In subsection (2)—
 - (a) the words from “one or more” to “combination of authorisations” are repealed;
 - (b) after paragraph (b) there is inserted “or
 - (ba) a retail authorisation and a wholesale authorisation.”;
 - (c) paragraphs (c) and (d) are repealed.
 - (3) In subsection (3), the words “(including their operation in England and Wales)” are repealed.
- 5 (1) Section 17AA (water supply licences: restrictions on grants) (as substituted by section 1) is amended as follows.
 - (2) In subsection (1), after paragraph (b) there is inserted—
 - (ba) the Welsh Ministers;
 - (bb) the Chief Inspector of Drinking Water for Wales if there is one;”.
 - (3) Subsection (2) is repealed.
 - (4) In subsection (5), paragraphs (b) and (c) are repealed.
- 6 In section 17B (guidance and interpretation) (as amended by section 2)—
 - (a) in subsection (4A), the words “, in the case of an undertaker whose area is wholly or mainly in England,” are repealed;
 - (b) subsections (5) to (8) are repealed.

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- 7 (1) Section 17BA (sewerage licences) (inserted by section 4) is amended as follows.
- (2) In subsection (1), the words “whose area is wholly or mainly in England” are repealed.
- (3) After subsection (5) there is inserted—
- “(5A) Before giving a general authorisation, the Secretary of State must consult the Welsh Ministers.”
- 8 In section 17BB (sewerage licences: restrictions on grants) (inserted by section 4), in subsection (1), after “of State” there is inserted “, the Welsh Ministers”.
- 9 In section 17C (meaning of household premises) (as amended by Schedule 7), in subsection (1), for “paragraphs 4 and 7(a)” there is substituted “ paragraph 4”.
- 10 Section 17D (the threshold requirement) is repealed (if not previously repealed by an order under section 3).
- 11 In section 17DA (guidance) (inserted by Schedule 7), paragraph (a) is repealed.
- 12 In section 17E (determinations by the Authority) (as amended by Schedule 7), in subsection (2)—
- (a) in paragraph (a), the words “or 7(a) or (b)” are repealed;
- (b) paragraph (c) is repealed.
- 13 (1) Section 17FA (arrangements with the Water Industry Commission for Scotland) (inserted by section 6) is amended as follows.
- (2) In subsection (1)(a), the words “or a restricted retail authorisation or both” are repealed.
- (3) In subsection (2)(a), the words “or particular authorisations” are repealed.
- 14 In section 17G (water supply licence conditions) (as amended by Schedule 7), in subsection (4)(a)(iii), the words “so far as subsection (3) applies to water supply licences,” are repealed.
- 15 (1) Section 17H (standard conditions of water supply licences) (as amended by Schedule 7) is amended as follows.
- (2) Subsection (1A) is repealed.
- (3) In subsection (2), for the words from “the different” to the end there is substituted “ whether the conditions are to relate to a retail authorisation or a wholesale authorisation or both types of authorisation. ”
- (4) In subsection (3)—
- (a) for “giving a particular authorisation or a particular combination of authorisations” there is substituted “ giving a retail authorisation or a wholesale authorisation or both authorisations ”;
- (b) for “that particular combination of authorisations” there is substituted “ those authorisations ”.
- (5) In subsection (4), for “any particular authorisation or combination of authorisations” there is substituted “ one or other or both authorisations ”.
- (6) In subsection (8)(b)(i), the words from “if the” to “supplementary authorisation,” are repealed.

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- (7) In subsection (9), the words from “in a case” to “subsection (8)(b)(i)” are repealed.
- 16 (1) Section 17HA (standard conditions of sewerage licences) (inserted by Schedule 7) is amended as follows.
- (2) In subsection (9)(b), after sub-paragraph (i) there is inserted—
“*(ia)* on the Welsh Ministers.”
- (3) In subsection (10), after “of State” there is inserted “ (after consulting the Welsh Ministers) ”.
- 17 In section 17I (modifications of water supply licences by agreement) (as amended by Schedule 7)—
- (a) in subsection (4)(b)(iv), the words from the beginning to “supply licence,” are repealed;
- (b) in subsection (5A), the words “in relation to a water supply licence” are repealed.
- 18 (1) Section 17J (modification of standard conditions of water supply licences) (as amended by Schedule 7) is amended as follows.
- (2) In subsection (4)(b)(iv), the words from the beginning to “licence,” are repealed.
- (3) In subsection (5A), the words “in relation to a water supply licence” are repealed.
- (4) In subsection (10), the words “in relation to the standard conditions of water supply licences” are repealed.
- 19 In section 17K (water supply licences: modification references to Competition Commission) (as amended by Schedule 7), in subsection (5)(b)(iv), the words from the beginning to “licences,” are repealed.
- 20 (1) Section 17N (water supply licences: reports on modification references) (as amended by Schedule 7) is amended as follows.
- (2) In subsection (10)(a)(iv), the words from the beginning to “licence,” are repealed.
- (3) In subsection (11)(a)(ii), the words from the beginning to “licences,” are repealed.
- (4) In subsection (12), the words “, if the report relates to water supply licences,” are repealed.
- 21 In section 17O (modification of licences following report) (as amended by Schedule 7), in subsection (5)(c)(iii), the words from the beginning to “or licences,” are repealed.
- 22 In section 17P (water supply licences: Commission's power of veto following report) (as amended by Schedule 7), in subsection (7)(b)(v), the words from the beginning to “licences,” are repealed.
- 23 In section 23 (meaning and effect of special administration order) (as amended by Schedule 7), in subsection (6)(a), the words “or supplementary” are repealed.
- 24 In section 24 (special administration orders made on special petitions) (as amended by Schedule 7), in subsection (1B), the words from “in relation to” to “supplementary authorisation,” are repealed.
- 25 In section 27C (the interests of consumers) (as amended by Schedule 7)—
- (a) in subsection (1)—

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- (i) after paragraph (d) there is inserted “and”;
 - (ii) paragraph (f) and the “and” preceding it are repealed;
 - (b) subsection (2) is repealed.
- 26 (1) Section 38ZA (standards of performance in connection with the supply of water: water supply licensees) (inserted by section 29) is amended as follows.
- (2) In subsection (1), the words “or restricted retail authorisations” are repealed.
- (3) In subsection (6), for the definition of “the Minister” there is substituted—
- ““the Minister” means—
- (a) the Secretary of State, in respect of the supply of water by a water supply licensee in accordance with the licensee's retail authorisation using the supply system of a water undertaker whose area is wholly or mainly in England;
 - (b) the Welsh Ministers, in respect of the supply of water by a water supply licensee in accordance with the licensee's retail authorisation using the supply system of a water undertaker whose area is wholly or mainly in Wales;”.
- 27 In section 52 (the domestic supply duty) (as amended by Schedule 7), in subsection (4A)—
- (a) after paragraph (a) there is inserted “and”;
 - (b) paragraph (c) and the “and” preceding it are repealed.
- 28 In section 55 (supplies for non-domestic purposes) (as amended by Schedule 7), in subsection (1A)(b), the words from “or, in the case” to “that subsection” are repealed.
- 29 In section 63AC(4) (as substituted by section 31), the words “ or a restricted retail authorisation ” are repealed.
- 30 (1) Section 66A (use of water undertaker's supply system) (inserted by Schedule 2) is amended as follows.
- (2) Subsection (2) is repealed.
- (3) In subsection (5)—
- (a) in paragraph (a), the words “in the case of a request under subsection (1),” are repealed;
 - (b) paragraph (b) is repealed.
- (4) In subsection (7)(a), the words “or (2)” are repealed.
- (5) In subsection (9)(c), the words “or a restricted retail authorisation” are repealed.
- 31 (1) Section 66AA (water supply from water undertaker) (inserted by Schedule 2) is amended as follows.
- (2) Subsection (2) is repealed.
- (3) In subsection (3)(a), the words “or, as the case may be, subsection (2)” are repealed.
- (4) In subsection (5)—
- (a) in paragraph (a), the words “or, as the case may be, R” are repealed;
 - (b) in paragraph (b), the words “or, as the case may be, R” are repealed.

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- (5) In subsection (7)(a), the words “or (2)” are repealed.
- 32 (1) Section 66B (introduction of water into water undertaker's supply system) (inserted by Schedule 2) is amended as follows.
- (2) Subsections (2) and (3) are repealed.
- (3) In subsection (4)—
- (a) in paragraph (a), the words “in a case falling within subsection (1),” are repealed;
- (b) paragraphs (b) and (c) are repealed;
- (c) in paragraph (d), for “steps under paragraphs (a), (b) or (c) (as the case may be)” there is substituted “such steps”.
- (4) In subsection (6)(a), the words “, (2) or (3)” are repealed.
- (5) Subsections (7) and (8) are repealed.
- (6) In subsection (9), the words “or (b)(i) or (ii)” are repealed.
- (7) Subsection (10)(b) is repealed.
- 33 (1) Section 66C (introduction of water provided by secondary undertaker) (inserted by Schedule 2) is amended as follows.
- (2) In subsection (1), the words from “A request under paragraph (a)” to the end are repealed.
- (3) Subsections (2) to (4) are repealed.
- (4) In subsection (5), the words “by virtue of subsection (1), (2) or (4)” are repealed.
- (5) In subsection (6)(a), the words “, L2, L3 or R” are repealed.
- (6) In subsection (7), the words “, L2 or R” are repealed.
- (7) In subsection (9)(a), the words “, (2), (3) or (4)” are repealed.
- (8) In subsection (11), the words “, (2), (3) or (4)” are repealed.
- 34 In section 66E (rules about charges) (inserted by Schedule 2), in subsection (3), the words “or restricted retail authorisation” are repealed.
- 35 In section 66EA (rules about charges: provision about reduction in charges) (inserted by Schedule 2), in subsection (1)(a), the words “or a restricted retail authorisation” are repealed.
- 36 In section 66G (designation of strategic supply) (as amended by Schedule 2), in subsection (11), paragraph (b) and the “or” preceding it are repealed.
- 37 In section 66H (designation of collective strategic supply) (as amended by Schedule 2), in subsection (11), paragraph (b) and the “or” preceding it are repealed.
- 38 (1) Section 68 (duties of water undertakers and licensed water suppliers with respect to water quality) (as amended by Schedule 7) is amended as follows.
- (2) In subsection (1A)—
- (a) in paragraph (a), the words “or restricted retail authorisation” are repealed;

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- (b) in paragraph (b), the words “or restricted retail authorisation” are repealed.
- (3) In subsection (6), the words “or a restricted retail authorisation” are repealed.
- 39 (1) Section 95ZA (standards of performance in connection with provision of sewerage services: sewerage licensees) (inserted by section 30) is amended as follows.
- (2) In the following places—
- (a) the opening words of subsection (1),
 - (b) subsection (1)(b)(i), and
 - (c) subsection (2),
- for “Secretary of State” there is substituted “Minister”.
- (3) In subsection (2), for “Secretary of State's” there is substituted “Minister's”.
- (4) After subsection (5) there is inserted—
- “(6) In this section—
- “the Minister” means—
- (a) the Secretary of State, in respect of the provision of services by a sewerage licensee in accordance with the licensee's retail authorisation using the sewerage system of a sewerage undertaker whose area is wholly or mainly in England;
 - (b) the Welsh Ministers, in respect of the provision of services by a sewerage licensee in accordance with the licensee's retail authorisation using the sewerage system of a sewerage undertaker whose area is wholly or mainly in Wales;
- “prescribed” means prescribed by regulations made by the Minister.”
- 40 In section 96ZA (procedure for regulations under section 95ZA) (inserted by section 30), for subsection (2) there is substituted—
- “(2) In the application of section 96 by virtue of subsection (1)—
- (a) a reference to a sewerage undertaker is to be treated as a reference to a sewerage licensee, and
 - (b) a reference to the Secretary of State is to be treated as a reference to the Minister (as defined in section 95ZA(6)).
- (3) Regulations under section 95ZA are to be made by statutory instrument.
- (4) A statutory instrument containing regulations under section 95ZA is subject to annulment in pursuance of a resolution of—
- (a) either House of Parliament, in the case of regulations made by the Secretary of State;
 - (b) the Assembly, in the case of regulations made by the Welsh Ministers.
- (5) Section 213(2) to (2B) applies to regulations made by the Welsh Ministers under section 95ZA as it applies to regulations made by the Secretary of State.”
- 41 (1) Section 117G (codes under section 117F: procedure) (inserted by Schedule 4) is amended as follows.

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- (2) In subsection (2), after paragraph (a) there is inserted—
“(aa) the Welsh Ministers;”.
- (3) For subsection (4) there is substituted—
“(4) Before a code under section 117F prepared by the Authority is issued, the Minister may direct the Authority—
(a) not to issue the code, or
(b) to issue the code with specified modifications.
(4A) Subsection (4) is subject to subsections (4C) and (4D).
(4B) In subsection (4) “the Minister” means—
(a) the Secretary of State, so far as a code prepared by the Authority relates to section 117E agreements made with sewerage undertakers whose areas are wholly or mainly in England;
(b) the Welsh Ministers, so far as a code prepared by the Authority relates to section 117E agreements made with sewerage undertakers whose areas are wholly or mainly in Wales.
(4C) The power under subsection (4) may not be exercised more than once by the Secretary of State or the Welsh Ministers.
(4D) If the power under subsection (4) is not exercised by the Secretary of State or the Welsh Ministers on the first occasion on which it may be exercised by the Secretary of State or (as the case may be) the Welsh Ministers, it may not be exercised by the Secretary of State or (as the case may be) the Welsh Ministers on a later occasion.”
- (4) In subsection (6), after paragraph (a) there is inserted—
“(aa) the NRBW, in relation to section 117E agreements made with sewerage undertakers whose areas are wholly in Wales;”.
- (5) The power to give a direction under section 117G(4) of the Water Industry Act 1991 (as substituted by this paragraph) may not be exercised by the Secretary of State if, before the coming into force of this paragraph—
(a) the Secretary of State exercised the power to give a direction under section 117G(4) of the Water Industry Act 1991 (inserted by Schedule 4), or
(b) the Secretary of State omitted to exercise that power to give a direction.
- 42 (1) Section 117K (rules under section 117I: procedure) (inserted by Schedule 4) is amended as follows.
- (2) In subsection (2), after paragraph (a) there is inserted—
“(aa) the Welsh Ministers;”.
- (3) For subsection (5) there is substituted—
“(5) Before rules under section 117I prepared by the Authority are issued, the Minister may direct the Authority not to issue the rules.
(5A) In subsection (5) “the Minister” means—
(a) the Secretary of State, so far as rules prepared by the Authority relate to section 117E agreements made with sewerage undertakers whose areas are wholly or mainly in England;

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- (b) the Welsh Ministers, so far as rules prepared by the Authority relate to section 117E agreements made with sewerage undertakers whose areas are wholly or mainly in Wales.”
- (4) In subsection (7), after paragraph (a) there is inserted—
- “(aa) the NRBW, in relation to section 117E agreements made with sewerage undertakers whose areas are wholly in Wales;”.
- 43 (1) Section 117L (rules under section 117I: minor or urgent revisions) (inserted by Schedule 4) is amended as follows.
- (2) In subsections (3), (4) and (5)(b), for “the Secretary of State” there is substituted “the Minister”.
- (3) After subsection (8) there is inserted—
- “(9) In this section “the Minister” has the meaning given by section 117K.”
- 44 (1) Section 117M (rules under section 117I: guidance) (inserted by Schedule 4) is amended as follows.
- (2) In subsection (3), for the words from “are such” to the end there is substituted “are—
- (a) the Secretary of State;
- (b) the Welsh Ministers;
- (c) such other persons as the Minister thinks appropriate.”
- (3) In subsection (7), for “means the Secretary of State.” there is substituted “means—
- (a) the Secretary of State, in relation to sewerage undertakers whose areas are wholly or mainly in England;
- (b) the Welsh Ministers, in relation to sewerage undertakers whose areas are wholly or mainly in Wales.”
- 45 (1) Section 117N (designation of strategic sewerage provision) (inserted by Schedule 4) is amended as follows.
- (2) In subsection (4), after paragraph (a) there is inserted—
- “(aa) the Welsh Ministers;”.
- (3) In subsection (8), after paragraph (a) there is inserted—
- “(aa) the Welsh Ministers;”.
- (4) In subsection (11), after paragraph (a) there is inserted—
- “(aa) the NRBW, in a case where the undertaker's area is wholly in Wales;”.
- 46 (1) Section 117O (designation of collective strategic sewerage provision) (inserted by Schedule 4) is amended as follows.
- (2) In subsection (4), after paragraph (a) there is inserted—
- “(aa) the Welsh Ministers;”.
- (3) In subsection (8), after paragraph (a) there is inserted—
- “(aa) the Welsh Ministers;”.
- 47 In section 117P (prohibition on unauthorised use of sewerage system) (inserted by Schedule 4), in subsection (1), the words “whose area is wholly or mainly in England” are repealed.

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- 48 In section 117Q (prohibition on unauthorised removal of matter from sewerage system) (inserted by Schedule 4), in subsection (1), the words “whose area is wholly or mainly in England” are repealed.
- 49 In section 117S (section 117R: supplementary) (inserted by Schedule 4), at the end there is inserted—
- “(7) The power to—
- (a) make an order under subsection (1) or (2) or section 117R(1), or
- (b) give a direction under subsection (3),
- is exercisable by the Welsh Ministers (and not by the Secretary of State) in relation to any supply system of a sewerage undertaker whose area is wholly or mainly in Wales.
- (8) Accordingly, subsections (1) to (5) and section 117R apply in relation to an order made or a direction given by the Welsh Ministers by virtue of subsection (7) as they apply in relation to an order made or direction given by the Secretary of State.
- (9) A statutory instrument containing an order made by the Welsh Ministers by virtue of subsection (7) is subject to annulment in pursuance of a resolution of the Assembly.”
- 50 In section 158 (powers to lay pipes in streets), in subsection (7)(a), the following words are repealed—
- (a) “or (b)(i)”;
(b) “or laid in pursuance of section 66B(4)(b)(ii)”.
- 51 In section 195(3AA) (the Authority's register: consultation as regards water supply licensees) (as amended by Schedule 7), after “water supply licensee” there is inserted “or a sewerage licensee”.
- 52 In section 207D (exercise of adjudication functions by other persons) (inserted by section 39), in subsection (5), in paragraph (b) of the definition of “the Minister”—
- (a) the “or” following sub-paragraph (i) is repealed;
(b) after sub-paragraph (ii) there is inserted “, or
(iii) in relation to a sewerage licensee using the sewerage system of such an undertaker (see section 17BA);”.
- 53 In section 213 (powers to make regulations), subsection (1ZA) (inserted by Schedule 7) is repealed (if not previously repealed by an order under section 3).
- 54 (1) Schedule 2A (water supply licences: authorisations) (inserted by Schedule 1) is amended as follows.
- (2) Paragraphs 1 and 2 are repealed.
- (3) Paragraphs 6 to 8 are repealed.
- (4) In paragraph 9, for “requirements in paragraphs 4 and 7 are” there is substituted “requirement in paragraph 4 is”.
- (5) In paragraph 10, for “paragraphs 4 and 7” there is substituted “ paragraph 4 ”.

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