

SCHEDULE 1

Article 2

PART 1

MODIFICATION OF PUBLIC GENERAL ACTS

Electricity Act 1989 (c. 29)

1.—(1) The Electricity Act 1989 is amended in accordance with sub-paragraphs (2) to (5).

(2) In section 36 (consent required for construction etc. of generating stations)—

- (a) insert at the beginning of subsection (5), “Subject to subsections (5A) and (5B),”; and
- (b) after subsection (5), insert—

“(5A) In the case of a generating station in respect of which a controlled activity, within the meaning of the Water Environment (Controlled Activities) (Scotland) Regulations 2005, will be carried on, the Secretary of State shall, before granting a consent under subsection (1), obtain and have regard to the advice of the Scottish Environment Protection Agency on matters relating to the protection of the water environment and have regard to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003.

(5B) In the event that the conditions of a consent granted under subsection (1) on matters relating to the protection of the water environment, and the conditions of an authorisation granted under the Water Environment (Controlled Activities) (Scotland) Regulations 2005 differ, and cannot reasonably be reconciled, the relevant conditions of that consent shall be treated as modified to the extent necessary to be consistent with the conditions of that authorisation.”.

(3) In section 111 (general interpretation)(1), insert at the appropriate place—

““protection of the water environment” has the same meaning as in section 1(2) of the Water Environment and Water Services (Scotland) Act 2003;”.

(4) In Schedule 5 (water rights for hydro-electric generating stations in Scotland)(2)—

- (a) insert at the beginning of paragraph 5, “Subject to paragraphs 5A and 5B,”; and
- (b) after paragraph 5, insert—

“5A. Before making an order under paragraph 2, and in considering the matters referred to in paragraphs 3 to 5, the Secretary of State shall—

- (a) obtain and have regard to the advice of the Scottish Environment Protection Agency on matters relating to the protection of the water environment (and in particular as to the extent to, and the circumstances in, which water may be taken and the quantity of compensation water to be provided); and
- (b) have regard to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003.

5B. In the event that the provisions of an order made under paragraph 2 on matters relating to the protection of the water environment, and the conditions of an authorisation granted under the Water Environment (Controlled Activities) (Scotland) Regulations 2005 differ and cannot reasonably be reconciled, the relevant provisions of that order shall be treated as modified to the extent necessary to be consistent with the conditions of that authorisation.”.

(1) There are amendments to section 111 not relevant to this Order.

(2) There are amendments to Schedule 5 not relevant to this Order.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (5) In Schedule 9, paragraph 5 (Fisheries Committee: Scotland)—
- (a) insert at the beginning of sub-paragraph (6), “Subject to sub-paragraph (6A),”; and
- (b) after sub-paragraph (6), insert—
- “(6A) In the case of a generating station in respect of which a controlled activity within the meaning of the Water Environment (Controlled Activities) (Scotland) Regulations 2005 will be carried on, the Committee shall, before making a recommendation under sub-paragraph (6), obtain and have regard to the advice of the Scottish Environment Protection Agency on matters relating to the protection of the water environment.”.

Finance Act 1996 (c. 8)

2. In section 43A(4) of the Finance Act 1996 (contaminated land)(3)—
- (a) omit the word “or” where it occurs after paragraph (j); and
- (b) after paragraph (k), insert—
- “; or
- (l) a notice served under regulation 28(2) of the Water Environment (Controlled Activities) (Scotland) Regulations 2005.”.

PART 2

MODIFICATION OF SUBORDINATE LEGISLATION

Landfill Tax Regulations 1996 (S.I. 1996/1527)

3. In regulation 33(4) of the Landfill Tax Regulations 1996 (bodies eligible for approval)(4), after paragraph (j), insert—
- “(k) a notice served under regulation 28(2) of the Water Environment (Controlled Activities) (Scotland) Regulations 2005.”.

SCHEDULE 2

Article 3(2)

LOCAL ENACTMENTS

<i>Title</i>	<i>Reference</i>
The Loch Leven Water Power Act 1901(5)	c.cclxx (1 Edw. 7)
The Loch Leven Water Power (Amendment) Act 1904(6)	c.ccxli (4 Edw. 7)

- (3) Section 43A was inserted by [S.I. 1996/1529](#) and amended by the Pollution Prevention and Control Act 1999 ([c. 24](#)), Schedule 3 which is not yet in force and [S.S.I. 2000/323](#).
- (4) Regulation 33(4) was amended by [S.I. 2000/1973](#), [S.S.I. 2000/323](#) and [S.R. 2003/46](#).
- (5) Amended by the [Loch Leven Water Power \(Amendment\) Act 1904 \(c.ccxli\)](#), section 25; the [Loch Leven Water Power Order Confirmation Act 1908 \(c.xxviii\)](#), section 4; the [Loch Leven Water Power \(Transfer\) Order Confirmation Act 1910 \(c.cxxxviii\)](#), section 3; the [North of Scotland Electricity Order Confirmation Act 1958 \(c.ii\)](#), the Schedule, Schedule 3 to the Order; the [Post Office Act 1969 \(c. 48\)](#), Schedule 11, Part II; [S.I. 1969/1066](#) and the [Loch Leven and Lochaber Water Power Order Confirmation Act 1995 \(c.vii\)](#), the Schedule, Part I of the Schedule to the Order.
- (6) Amended by the [Post Office Act 1969 \(c. 48\)](#), Schedule 11, Part II; [S.I. 1969/1066](#) and the [Loch Leven and Lochaber Water Power Order Confirmation Act 1995 \(c.vii\)](#), the Schedule, article 6 of the Order.

<i>Title</i>	<i>Reference</i>
The Loch Leven Water Power Order Confirmation Act 1908 (7)	c.xxviii (8 Edw. 7)
The Loch Leven Water Power (Transfer) Order Confirmation Act 1910 (8)	c.cxxxviii (10 Edw. 7 & 1 Geo. 5)
The Lochaber Water Power Act 1921 (9)	c.xliv (11 & 12 Geo. 5)
The Grampian Electricity Supply Act 1922 (10)	c.lxxix (12 & 13 Geo. 5)
The Lochaber Water Power Act 1930 (11)	c.cx (20 & 21 Geo. 5)
The Lochaber Water Power Order Confirmation Act 1938 (12)	c.lxiv (1 & 2 Geo. 6)
The Lochaber Water Power Order Confirmation Act 1940	c.xxiv (3 & 4 Geo. 6)
The South of Scotland Electricity Order Confirmation Act 1956 (13)	c.xciv (4 & 5 Eliz. 2)
The North of Scotland Electricity Order Confirmation Act 1958 (14)	c.ii (7 & 8 Eliz. 2)

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- (7) Amended by the [Loch Leven and Lochaber Water Power Order Confirmation Act 1995 \(c.vii\)](#), the Schedule, article 6 of the Order.
- (8) Amended by the [North of Scotland Electricity Order Confirmation Act 1958 \(c.ii\)](#), the Schedule, Schedule 3 to the Order and the [Loch Leven and Lochaber Water Power Order Confirmation Act 1995 \(c.vii\)](#), the Schedule, article 6 of and Part I of the Schedule to the Order.
- (9) Amended by the [Lochaber Water Power Act 1930 \(c.cx\)](#), section 30; the [Lochaber Water Power Order Confirmation Act 1938 \(c.lxiv\)](#), section 28; the [Lochaber Water Power Order Confirmation Act 1940 \(c.xxiv\)](#), section 14 and the [Loch Leven and Lochaber Water Power Order Confirmation Act 1995 \(c.vii\)](#), the Schedule, Parts I and II of the Schedule to the Order.
- (10) Amended by the [Grampian Electricity Supply Act 1924 \(c.lii\)](#), section 26 and the [North of Scotland Electricity Order Confirmation Act 1958 \(c.ii\)](#), the Schedule, Schedule 3 to the Order.
- (11) Amended by the [Loch Leven and Lochaber Water Power Order Confirmation Act 1995 \(c.vii\)](#), the Schedule, Part I of the Schedule to the Order.
- (12) Amended by the [Lochaber Water Power Order Confirmation Act 1940 \(c.xxiv\)](#), section 10 and the [Loch Leven and Lochaber Water Power Order Confirmation Act 1995 \(c.vii\)](#), the Schedule, Part II of the Schedule to the Order.
- (13) Amended by the [Criminal Justice Act 1982 \(c. 48\)](#), Schedule 15, paragraphs 9 and 10 and the [Energy Act 1983 \(c. 25\)](#), Schedule 4, Part I.
- (14) Amended by the [Aberdeen Harbour Order Confirmation Act 1960 \(c.i\)](#), the Schedule, article 186(1) of the Order; the [Criminal Justice Act 1982 \(c. 48\)](#), Schedule 15, paragraphs 11 and 12 and the [Energy Act 1983 \(c. 25\)](#), Schedule 4, Part I.