

# Water Resources (Scotland) Bill

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## Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 to 39	Schedule 1
Sections 40 to 44	Schedule 2
Sections 45 to 48	Schedule 3
Sections 49 to 52	Long Title

Amendments marked \* are new (including manuscript amendments) or have been altered.

### Section 1

#### Jim Eadie

- 53 In section 1, page 1, line 14, leave out <designed to contribute to the sustainable use of the> and insert <best calculated to further the achievement of sustainable development, including the protection and, where appropriate, recovery of water>

#### Nicola Sturgeon

- 12 In section 1, page 1, line 21, leave out <and> and insert <, social, environmental or>

#### Elaine Murray

- 1 In section 1, page 1, line 24, after <means> insert <—  
( ) all peatlands, and  
( )>

### Section 3

#### Elaine Murray

- 2 In section 3, page 2, line 16, at end insert—  
<( ) a subsidiary of Scottish Water,>

#### Jim Eadie

- 54 In section 3, page 2, line 20, at end insert—  
<( ) the Forestry Commissioners, in relation to their activities for Scotland,  
( ) each National Park authority,  
( ) the Water Industry Commission for Scotland.>

**Nicola Sturgeon**

13 In section 3, page 2, line 23, at beginning insert <updating or>

**Elaine Murray**

3 In section 3, page 2, line 26, at end insert—

<( ) In this section, “subsidiary” has the meaning given by section 1159 of the Companies Act 2006.>

**Section 4**

**Nicola Sturgeon**

14 Leave out section 4 and insert—

**<Report on steps taken**

(1) The Scottish Ministers—

5 (a) must prepare an initial report on how (and the extent to which) they have fulfilled the duty under section 1(1) during the period of 3 years beginning with the date on which section 1(1) comes into force,

(b) from time to time as they consider appropriate, may prepare a further report on how (and the extent to which) they have fulfilled the duty under section 1(1) during any subsequent period of at least 3 years.

10 (2) A report may include such additional information as the Scottish Ministers consider appropriate.

(3) A report is to be laid before the Scottish Parliament as soon as reasonably practicable after the end of the period to which the report relates.>

**Jim Eadie**

14A As an amendment to amendment 14, line 4, leave out from <prepare> to end of line 6 and insert <, as soon as practicable after the end of each year in the 3 year period beginning with the date on which section 1(1) comes into force, prepare a report on how (and the extent to which) they have fulfilled the duty under section 1(1) during that year,>

**Jim Eadie**

14B As an amendment to amendment 14, line 7, leave out <from time to time as they consider appropriate, may> and insert <must>

**Jim Eadie**

14C As an amendment to amendment 14, line 9, leave out <any> and insert <each>

**Jim Eadie**

14D As an amendment to amendment 14, line 9, leave out <at least>

**Jim Eadie**

- 14E** As an amendment to amendment 14, line 13, at end insert—  
<( ) A report under this section may, where practicable, be combined with a report under section 26 of the 2003 Act.>

**Section 5**

**Alex Johnstone**

- 58** Leave out section 5

**Section 6**

**Alex Johnstone**

- 59** Leave out section 6

**Section 7**

**Nicola Sturgeon**

- 15** In section 7, page 4, line 1, leave out <(ii)> and insert—  
<( ) maintaining>

**Alex Johnstone**

- 60** Leave out section 7

**Section 8**

**Nicola Sturgeon**

- 16** In section 8, page 4, line 13, leave out from <(including> to end of line 14 and insert—  
<( ) Regulations under subsection (2) may (in particular) include provision for all or some of an amount of water abstracted to be left out of account in specified circumstances.>

**Alex Johnstone**

- 61** Leave out section 8

**After section 8**

**Nicola Sturgeon**

- 17** After section 8, insert—  
<**Consultation on changes**  
Before making regulations under section 7(6) or (8)(1)(b) or (2), the Scottish Ministers must consult—

- (a) Scottish Water,
- (b) SEPA,
- (c) Scottish Natural Heritage,
- (d) such other persons as they consider appropriate.>

## **Section 9**

### **Elaine Murray**

- 4 In section 9, page 4, line 19, leave out <may> and insert <must>

### **Elaine Murray**

- 5 In section 9, page 4, line 21, leave out <may> and insert <must>

### **Alex Johnstone**

- 62 Leave out section 9

## **Section 10**

### **Alex Johnstone**

- 63 Leave out section 10

## **Section 11**

### **Alex Johnstone**

- 64 Leave out section 11

## **Section 12**

### **Alex Johnstone**

- 65 Leave out section 12

## **Section 13**

### **Elaine Murray**

- 6 In section 13, page 6, line 2, leave out <(3) and (4)> and insert <(1A) to (1D)>

### **Elaine Murray**

- 7 In section 13, page 6, line 6, leave out subsections (2) to (6) and insert—

<(1A) The Scottish Ministers must seek advice from the bodies listed in subsection (1B) concerning any adverse impact that may arise if the qualifying abstraction in question were to be carried out.

- (1B) The bodies are—
- (a) the Scottish Environment Protection Agency,
  - (b) Scottish Water,
  - (c) Scottish Natural Heritage,
  - (d) any local authority for an area likely to be affected,
  - (e) any National Park Authority for an area likely to be affected.
- (1C) The Scottish Ministers must take into account any advice received under subsection (1A) in determining any such application.
- (1D) The Scottish Ministers are not required to seek advice under subsection (1A) from a body listed under subsection (1B) where that body is the applicant.>

**Alex Johnstone**

- 66** Leave out section 13

#### **Section 14**

**Alex Johnstone**

- 67** Leave out section 14

#### **Section 15**

**Alex Johnstone**

- 68** Leave out section 15

#### **Section 16**

**Alex Johnstone**

- 69** Leave out section 16

#### **Section 17**

**Alex Johnstone**

- 70** Leave out section 17

#### **After section 17**

**Nicola Sturgeon**

- 18** After section 17 insert—

**<Corporate offending**

- (1) Subsection (2) applies where—
- (a) an offence under section 17 is committed by a relevant organisation, and

- (b) the commission of the offence involves the connivance or consent of, or is attributable to the neglect of, a responsible official of the organisation.
- (2) The responsible official (as well as the organisation) commits the offence.
- (3) “Relevant organisation” means—
  - (a) company,
  - (b) limited liability partnership,
  - (c) ordinary partnership,
  - (d) other body or association.
- (4) “Responsible official” means—
  - (a) in the case of a company, director, secretary, manager or similar officer,
  - (b) in the case of a limited liability partnership, member,
  - (c) in the case of an ordinary partnership, partner,
  - (d) in the case of another body or association, person who is concerned in the management or control of its affairs,but in each case also includes person purporting to act in such a capacity.>

### **Section 18**

#### **Nicola Sturgeon**

- 19 In section 18, page 7, line 34, leave out <or 8(1)(b) or (2)> and insert <, 8(1)(b) or (2) or 14(1)(c)>

#### **Alex Johnstone**

- 71 Leave out section 18

### **Section 19**

#### **Alex Johnstone**

- 72 Leave out section 19

### **Section 20**

#### **Nicola Sturgeon**

- 20 In section 20, page 8, line 23, at end insert—
  - <“premises” includes any land, building or other place,>

#### **Alex Johnstone**

- 73 Leave out section 20

## Section 22

### Jim Eadie

- 55 In section 22, page 9, line 6, after <economic> insert <, social, environmental>

### Jim Eadie

- 56 In section 22, page 9, line 9, at end insert—
- <( ) In fulfilling its duty under subsection (1), Scottish Water must do so in ways best calculated to further the achievement of sustainable development.”.>

## After section 22

### Elaine Murray

- 8 After section 22, insert—
- <Sustainable catchment management**
- In section 51 (sustainable development) of the 2002 Act, after subsection (3) there is inserted—
- “(4) In this section, “sustainable development” includes sustainable catchment management.
- (5) The Scottish Ministers must, within 12 months of this subsection coming into force, issue guidance under subsection (3) setting out how Scottish Water should best contribute to the achievement of sustainable catchment management.”.>

## After section 26

### Nicola Sturgeon

- 21 After section 26, insert—

#### *<Other matters*

#### **Errors in metering**

In section 54 (register of meter to be evidence) of the 1980 Act—

- (a) in subsection (3), for the words “five per cent” there is substituted “the relevant percentage”,
- (b) after subsection (3) there is inserted—
- “(4) In subsection (3), “the relevant percentage” means—
- (a) in the case of a high flow rate, 2.5%,
- (b) in the case of a low flow rate, 6%.
- (5) The Scottish Ministers, by regulations—
- (a) must define “high flow rate” and “low flow rate” for the purpose of subsection (4),
- (b) may amend a percentage figure appearing in subsection (4).”.>

## Section 27

### Nicola Sturgeon

22 In section 27, page 11, line 36, at end insert—

- <(6) But excluded from the definition given by subsection (5) is any water that is used or available as or for a private water supply within such meaning as the Scottish Ministers may by order prescribe for the purpose of this subsection.>

### Nicola Sturgeon

23 In section 27, page 13, line 8, at end insert—

- <( ) inspecting or measuring any water found there,>

### Nicola Sturgeon

24 In section 27, page 13, line 11, after <any> insert <measuring,>

### Nicola Sturgeon

25 In section 27, page 13, leave out line 36 and insert—

#### <76S Orders under this Part

An order under section 76M(6) or 76R(1) is subject to the negative procedure.”>

## Section 28

### Elaine Murray

10 In section 28, page 14, line 27, at end insert—

- <( ) In this section, “the purpose of protecting or improving the quality of any raw water” may include—
- (a) meeting environmental objectives under the Water Environment and Water Services (Scotland) Act 2003,
  - (b) meeting sustainable flood management objectives under the Flood Risk Management (Scotland) Act 2009, or
  - (c) the development of water resources under the Water Resources (Scotland) Act 2013.”>

## Section 32

### Nicola Sturgeon

26 In section 32, page 18, line 26, at end insert—

- <(2A) But no offence is committed under subsection (1) if the relevant substance is passed in accordance with the provisions of Part II of this Act.>

**Nicola Sturgeon**

- 27 In section 32, page 18, line 27, leave out <and (2)> and insert <to (2A)>

**Nicola Sturgeon**

- 28 In section 32, page 19, line 4, at end insert—  
<(2A) But subsection (4) does not apply if the relevant substance is passed in accordance with the provisions of Part II of this Act.>

**Nicola Sturgeon**

- 29 In section 32, page 19, line 5, leave out <subsection (1)> and insert <subsections (1) and (2A)>

**After section 33**

**Elaine Murray**

- 9 After section 33, insert—  
<**Definition of “trade premises”**  
In section 59(1) (interpretation) of the 1968 Act, in the entry for “trade or industry”, after the word “include” where it second appears there is inserted “premises used or managed by a public body or office holder (within the meaning of section 58 of the Nature Conservation (Scotland) Act 2004) and”.>

**Section 34**

**Nicola Sturgeon**

- 30 In section 34, page 19, line 33, at end insert—  
<**38AA Other rules**  
(1) This Part prevails over any rule of law or real burden—  
(a) requiring the agreement, of any owner of common property, to the carrying out of maintenance of the property, or  
(b) concerning the recovery, by any owner of common property from another owner of the property, of the cost of such maintenance,  
so far as the rule or burden is applicable in connection with measures of the kind to which section 38B relates.  
(2) In subsection (1), “real burden” is to be construed in accordance with the Title Conditions (Scotland) Act 2003.>

**Elaine Murray**

- 11 In section 34, page 22, line 15, at end insert—  
<**38FA Public awareness**  
The Scottish Environment Protection Agency must prepare and publish a strategy for securing improved public understanding of the requirements under any enactment for the registration, care and maintenance of septic tanks.>

## Section 37

### Nicola Sturgeon

- 31 In section 37, page 24, line 26, at end insert—  
<( ) premises of such types, or other types of property, as are specified in the order,>

## Schedule 1

### Nicola Sturgeon

- 32 In schedule 1, page 29, line 7, at end insert <, and  
( ) in such other manner as it thinks fit.>

### Nicola Sturgeon

- 33 In schedule 1, page 29, line 17, after <made> insert <by any person>

### Nicola Sturgeon

- 34 In schedule 1, page 29, line 20, after <published> insert <under this paragraph>

### Nicola Sturgeon

- 35 In schedule 1, page 29, line 27, after <must> insert <(so far as reasonably practicable)>

### Nicola Sturgeon

- 36 In schedule 1, page 29, line 32, leave out <manner> and insert <way>

### Nicola Sturgeon

- 37 In schedule 1, page 29, line 34, after <made> insert <by the person concerned>

### Nicola Sturgeon

- 38 In schedule 1, page 29, line 36, leave out <notification is given> and insert <notice is given to that person>

### Nicola Sturgeon

- 39 In schedule 1, page 30, line 17, after <made> insert <by the person>

### Nicola Sturgeon

- 40 In schedule 1, page 30, line 19, leave out <notification is given> and insert <notice is given to the person>

### Nicola Sturgeon

- 41 In schedule 1, page 31, line 2, after <made> insert <by the person>

**Nicola Sturgeon**

- 42 In schedule 1, page 31, line 3, leave out <notification is given> and insert <notice is given to the person>

**Nicola Sturgeon**

- 43 In schedule 1, page 31, line 30, leave out <that fact> and insert <it>

**Nicola Sturgeon**

- 44 In schedule 1, page 31, line 36, leave out <that fact> and insert <it>

**Nicola Sturgeon**

- 45 In schedule 1, page 32, line 1, leave out <two newspapers> and insert <one newspaper>

**Nicola Sturgeon**

- 46 In schedule 1, page 33, line 13, leave out <two newspapers> and insert <one newspaper>

**Nicola Sturgeon**

- 47 In schedule 1, page 33, line 16, after <such> insert <further>

**Nicola Sturgeon**

- 48 In schedule 1, page 35, line 30, leave out <in connection with the purposes in paragraph 12(1)> and insert <there>

**Nicola Sturgeon**

- 49 In schedule 1, page 35, line 32, after <any> insert <measuring,>

**Nicola Sturgeon**

- 50 In schedule 1, page 36, line 36, at end insert—

*<References to publication etc.*

18 (1) A relevant requirement is to be fulfilled without undue delay.

(2) In sub-paragraph (1), “relevant requirement” means requirement—

(a) to publish or give notice of something (or otherwise bring attention to it), and

(b) imposed on Scottish Water or the Scottish Ministers by paragraph 6, 7, 9 or 11.

19 (1) A reference in this Part to the day on which a notice is published under paragraph 1, 6 or 9 is to the earliest day when the notice has been so published in each manner mentioned in sub-paragraph (2).

(2) That is, published by Scottish Water—

(a) in at least one newspaper circulating in the relevant area, and

(b) on its website.

- (3) The operation of sub-paragraph (1) is not affected by additional publication of the notice in any manner at any time.>

### **After section 41**

#### **Nicola Sturgeon**

**51** After section 41, insert—

#### **<Corporate offending**

- (1) Subsection (2) applies where—
- (a) an offence under section 41 is committed by a relevant organisation, and
  - (b) the commission of the offence involves the connivance or consent of, or is attributable to the neglect of, a responsible official of the organisation.
- (2) The responsible official (as well as the organisation) commits the offence.
- (3) “Relevant organisation” means—
- (a) company,
  - (b) limited liability partnership,
  - (c) ordinary partnership,
  - (d) other body or association.
- (4) “Responsible official” means—
- (a) in the case of a company, director, secretary, manager or similar officer,
  - (b) in the case of a limited liability partnership, member,
  - (c) in the case of an ordinary partnership, partner,
  - (d) in the case of another body or association, person who is concerned in the management or control of its affairs,
- but in each case also includes person purporting to act in such a capacity.>

### **Section 47**

#### **Nicola Sturgeon**

**52** In section 47, page 27, line 7, leave out <or building> insert <, building or other place>

### **Schedule 3**

#### **Jim Eadie**

**74** In schedule 3, page 38, leave out line 9

### **Long Title**

#### **Jim Eadie**

**57** In the long title, page 1, line 1, after second <the> insert <sustainable>

**Alex Johnstone**

- 75 In the long title, page 1, line 2, leave out <to bring large-scale water abstraction under Ministerial control;>



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