

WATER ENVIRONMENT AND WATER SERVICES (SCOTLAND) ACT 2003

EXPLANATORY NOTES

BACKGROUND

3. The Act sets out new arrangements for the protection of the water environment and changes how new connections to the public water and sewerage infrastructure are to be funded.
4. The water environment provisions of the Act (Part 1) make provision and enable provision to be made for or in connection with implementing Directive [2000/60/EC](#) of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (“the Directive”).
5. EC Directives are legislative acts of the European Community. Member States are required to take all appropriate measures to fulfil the obligations arising out of the EC Treaties or resulting from action taken by the Community’s institutions (including Directives) by virtue of Article 10 of the Treaties. Article 249 of the Treaties specifically provides that Member States are required to achieve the outcomes and objectives specified in Directives although they have discretion about the methods and procedures to be employed in meeting them. The Scottish Ministers have responsibility for implementing the United Kingdom’s obligations under Directives so far as within devolved competence.
6. Article 1 of the Directive sets out the main outcomes that it is intended to deliver. These are to be realised through the achievement of the environmental objectives set out in Article 4. The Directive applies to all water in the natural environment – that is all rivers, lochs, estuaries and coastal waters as well as water under the ground. The basic objectives to be achieved as set out in Article 4(1) can be summarised as follows:
 - prevent deterioration in the status of surface water bodies;
 - protect, enhance and restore all bodies of surface water with the aim of achieving good surface water status by 2015;
 - prevent deterioration of the status of groundwater bodies;
 - protect, enhance and restore all bodies of groundwater with the aim of achieving good groundwater status by 2015;
 - prevent or limit the input of pollutants to groundwater and reverse any significant and sustained upward trend in the concentration of pollutants in groundwater;
 - comply with European wide measures against priority and priority hazardous substances; and
 - achieve compliance with any relevant standards and objectives for protected areas.

In addition, there is flexibility for Member States to take account of social, economic or wider environmental considerations by applying other objectives where it would

*These notes relate to the Water Environment and Water Services
(Scotland) Act 2003 (asp 3) which received Royal Assent on 5 March 2003*

be infeasible or disproportionately expensive to achieve the basic objectives. The circumstances in which these alternative objectives may apply are set out in the rest of Article 4.

7. The Directive requires Member States to put in place systems for managing their water environments, based on natural river basin districts and underpinned by extensive environmental monitoring and scientific investigation, called “river basin management”. It further requires Member States to take account of the need to recover the costs of water services as a way of encouraging the sustainable use of water resources.
8. The Directive repeals and replaces a number of older EC water Directives and incorporates the remaining existing water Directives (the Bathing Water, Nitrates and Urban Waste Water Treatment Directives) into its framework through its protected areas provisions. The “Natura” Directives on the protection of Habitats and Birds are also linked to this Directive by virtue of the protected area provisions.