

WATER SERVICES ETC. (SCOTLAND) ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Provision of Water and Sewerage Services

Scottish Water: services via licensed providers

Section 16: Scottish Water to provide services

71. The Act provides for water and sewerage services providers to assume responsibility for providing services to customers in the following way. Firstly, the provider applies for a licence from the Commission. Secondly, and assuming that a licence is granted, the provider makes arrangements with the occupier of eligible premises to provide them with licensed services. Thirdly, the provider agrees specific terms and conditions by which Scottish Water will provide a wholesale supply of water or, as the case may be, sewerage services in respect of the premises provided with such services. Section 16 makes provision for this third step.
72. Subsection (1) enables a water services provider, once it has made arrangements with the occupier of eligible premises (as defined in section 27 of the Act) for the supply of water to those premises, to request Scottish Water to supply water to the premises through the public water supply system (as defined in section 28 of the Act). Subsection (2) places a duty on Scottish Water to comply with this request subject to agreeing terms and conditions with the provider, and subject to the carrying out of the request being consistent with the exercise of Scottish Water's core functions (as defined in section 70(2) of the Water Industry (Scotland) Act 2002). This is to ensure that these new duties on Scottish Water are subject to its wider statutory responsibilities as the public supplier of water.
73. Subsection (3)(a) provides for Scottish Water's duty to supply water under subsection (2) to cease if the arrangements between a provider and the occupier of eligible premises have come to an end. However, this is subject to section 17(1) of the Act which provides that Scottish Water must continue to serve the premises for two months after the arrangements have come to an end, unless it has come to an end under the disconnection provisions in section 18(5). However, subsection (3)(b) provides that Scottish Water's duty to supply water under subsection (2) may be superseded by a new duty, such as, for example, when another licensed provider assumes responsibility for the provision of water services to the premises.
74. Subsections (4) to (6) make equivalent provision to subsections (1) to (3) as respects Scottish Water's duty to provide sewerage services to premises as agreed by the sewerage services provider. However, unlike Scottish Water's duties under subsections (1) to (3) in relation to the water supply, there is no general provision for sewerage services to be disconnected: a duty to provide sewerage services can only be superseded by a new duty, under subsection (5). Trade effluent services may, however, be discontinued by virtue of section 20 of the Act (see paragraphs 89 to 98 below).

*These notes relate to the Water Services etc. (Scotland) Act
2005 (asp 3) which received Royal Assent on 17 March 2005*

75. Where Scottish Water and a water or sewerage services provider cannot come to an agreement under subsections (2) or (5), on the terms and conditions whereby Scottish Water provides the water supply or sewerage services, subsection (7) provides for the Commission to determine the terms and conditions of the supply that Scottish Water is to make to the provider and for these to have effect as if they had been agreed between those parties.