

WATER SERVICES ETC. (SCOTLAND) ACT 2005

EXPLANATORY NOTES

THE ACT

3. The main provisions of the Act are as follows:

- Part 1 – replaces the Water Industry Commissioner (the Commissioner) with a body corporate, the Water Industry Commission (the Commission), with a view to improving the transparency, accountability and consistency of regulation in the water industry. It also amends the functions of the Water Customer Consultation Panels and the Convener of those Panels to strengthen customer representation in the water industry.
- Part 2 – makes a series of provisions regarding water and sewerage services:
 - prohibits common carriage (where Scottish Water would use its water mains to carry water treated by a competitor and its sewers to carry wastewater from a competitor’s customers to that competitor’s treatment works) in the water or sewerage systems, and prohibits retail competition for households (sections 4 and 5);
 - establishes a licensing regime for retail competition for non-household premises only, managed by the Water Industry Commission (sections 6 to 12);
 - enables Ministers to require Scottish Water to establish an undertaking for the purposes of applying for a licence under the Act (sections 13 to 15);
 - provides for arrangements between Scottish Water and a licensed water or sewerage services provider to supply water or sewerage services, or, as the case may be, to discontinue a water supply or trade effluent services, and the procedure to be followed in the latter cases (sections 16 to 20);
 - provides new arrangements for determining Scottish Water’s charges, under which the Water Industry Commission will determine charge limits based on objectives set by Ministers, and Scottish Water will propose charges schemes within these limits (sections 21 to 24);
 - enables Ministers to issue Codes of Practice on sewerage nuisance and introduces monitoring and enforcement provisions to ensure compliance with such Codes (sections 25 and 26); and
 - sets out definitions of “eligible premises” for the purposes of retail competition, and of “public water supply system” and “public sewerage system” (sections 27 to 29).
- Part 3 – makes provision for coal mine water pollution, providing a statutory basis for the remediation programme carried out by the Coal Authority to tackle and prevent pollution (section 30).

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

- Part 4 – makes miscellaneous and general provision, including in relation to the offences created under the Act and the procedure for exercising the order and regulation making powers provided under the Act (sections 31 to 37).