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STATUTORY INSTRUMENTS

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**2005 No. 3172**

**The Water Services etc. (Scotland) Act 2005  
(Consequential Provisions and Modifications) Order 2005**

**Commission's power of veto following report**

9.—(1) Subject to paragraph (2), the Commission may, within the period of 4 weeks after the date on which it is given a notice under article 8(6), direct the WIC—

- (a) not to make the modifications set out in that notice; or
- (b) not to make such of the modifications set out in that notice as may be specified in the direction,

and the WIC shall comply with any such direction.

(2) Before the expiry of the period of 4 weeks after the date on which it is given a notice under article 8(6), the Commission may, if it believes there is good reason why it is unable to issue a direction within that period, notify the WIC of its reason for that belief, and extend that period by not more than 2 weeks.

(3) The power to give a direction may only be exercised in respect of such of the modifications set out in the notice under article 8(6)(a) as appear to the Commission not to be the modifications which are requisite—

- (a) in relation to an article 3(2) or (3) reference, for the purpose of remedying or preventing all or any of the adverse effects specified in the report by virtue of article 7(4)(b)(i); or
- (b) in relation to an article 3(4) reference, for the purpose of giving effect to the modifications specified in the report by virtue of article 7(4)(c).

(4) Where the Commission gives a direction, it shall—

- (a) give notice setting out the modifications proposed by the WIC, the terms of the direction and the reasons for giving it; and
- (b) on an article 3(2) or (3) reference, make such modifications of, as the case may be, the conditions of the water services licence or sewerage services licence to which the reference relates as appear to the Commission to be requisite for the purpose of remedying or preventing—
  - (i) where the direction is given under paragraph (1)(a), the adverse effects specified in the report as effects which could be remedied or prevented by modifications; or
  - (ii) where the direction is given under paragraph (1)(b), such of those adverse effects as are not remedied or prevented by the modifications proposed to be made by the WIC; or
- (c) on an article 3(4) reference, make such modifications of the determination or revised determination to which the reference relates as appear to the Commission to be requisite for the purpose of giving effect to—
  - (i) where the direction is given under paragraph (1)(a), the conclusions specified in the Commission's report; or

(ii) where the direction is given under paragraph (1)(b), the conclusions specified in the Commission's report which are not given effect by the modifications proposed to be made by the WIC.

(5) In making modifications under paragraph (4)(b) or (c), the Commission shall take into account the matters specified in article 3(7).

(6) Before making modifications under paragraph (4)(b) or (c), the Commission shall give notice—

- (a) stating that it proposes to make the modifications and setting them out;
- (b) stating the reasons why it proposes to make them; and
- (c) specifying the period (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(7) A notice under paragraph (4)(a) or (6) shall be given—

- (a) by serving a copy of the notice on—
  - (i) the WIC;
  - (ii) all water services providers and sewerage services providers;
  - (iii) the Scottish Ministers;
  - (iv) Scottish Water; and
  - (v) the Convener of the Water Customer Consultation Panels; and
- (b) by publishing the notice in such a manner as the Commission considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by the making of the modifications.

(8) After making modifications under this article the Commission shall publish a notice stating that the modifications have been made and setting them out, together with the reasons for making them by publishing the notice in such manner as the Commission considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by the making of the modifications.

(9) Modification under this article of part of a condition of a water services licence or a sewerage services licence shall not prevent any other part of the condition from continuing to have effect for the purposes of Part 2 of, and Schedule 2 to, the 2005 Act.

(10) Modification under this article of part of a determination or revised determination shall not prevent any other part of the determination or revised determination from continuing to have effect for the purposes of sections 29B and 29F of the 2002 Act.