

WATER SERVICES ETC. (SCOTLAND) ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 5: Amendments to Enactments

Paragraph 7: Water Industry (Scotland) Act 2002 (asp 3)

306. *Paragraph 7* amends the Water Industry (Scotland) Act 2002 in consequence of the provisions of the Act. Sub-paragraph (1) replaces references to the Commissioner with references to the Commission, since the Water Industry Commissioner is being replaced with the Water Industry Commission under Part I of the Act.
307. Sub-paragraph (2) amends section 3(6) of the 2002 Act (functions of the Commissioner) and replaces references to customers there with references to persons whose premises are connected to, or might reasonably become connected to, the public water supply or sewerage systems. This ensures that, in its duty to advise Ministers on the standard of service Scottish Water provides and the manner in which it conducts relations with “customers”, the Water Industry Commission will represent those persons.
308. Sub-paragraph (3) amends section 5 (annual reports by, and information from, the Commissioner) of the 2002 Act in relation the content of the Commission’s annual report, to require the report to contain a summary of any action taken by the Commission in response to representations and recommendations made by the Customer Panels under the amended section 2 of the 2002 Act (as introduced by section 3(1) of the Act).
309. Sub-paragraph (4) replaces references to Scottish Water’s “customers” in section 26 (customer standards code) of the 2002 Act, with reference to persons whose premises are connected to, or might reasonably become connected to, the public water supply or sewerage systems. This ensures that Scottish Water’s customer standards code will apply in relation to services provided to such persons. It also repeals subsection (2) of section 26 of that Act, which provided that a customer standards code had to be submitted to the Commissioner no later than the date on which Scottish Water first sent a charges scheme to the Commissioner. This is in consequence of the repeal of section 32 of the 2002 Act by section 21(3) of the Act (and its replacement with new provisions as regards the determination of Scottish Water’s charges).
310. Sub-paragraph (5) repeals section 40 of the Act (reduced charges), which allowed Ministers to provide by regulations that certain people should pay Scottish Water reduced charges. In future provision for reduced charges will be given effect through Ministers’ statement under the new section 29D which Scottish Water will take account of in making charges schemes under the new section 29A.
311. Sub-paragraph (6) replaces wording in section 49 of the 2002 Act to ensure that the Scottish Ministers and Scottish Water are obliged to carry out their functions with regard to the interests of all end users of the public water and sewerage systems. The intention of this amendment is to exclude licensed water and sewerage services providers from the scope of this customer interest duty. Although those providers will be customers of Scottish Water in its wholesale capacity and will receive water and

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

sewerage services from them, the high level customer interest duty placed on Ministers and Scottish Water is to be exercised with regard to direct (i.e. domestic) customers of Scottish Water, and customers of the licensed providers, but not the providers themselves.

312. Sub-paragraph (7) amends section 57(7) of the 2002 Act (information and reports) to require Scottish Water to include in its annual report, information on the extent to which it has complied with requirements made under sections 13(2), 15(1) or (5) of the Act.
313. Sub-paragraph (8) adds the new section 56B to the orders and regulations which are excluded from those orders and regulations to be subject to negative procedure in the Scottish Parliament; and includes section 56B with the sections under which orders and regulations may be made subject to affirmative procedure.
314. Sub-paragraph (9) amends section 70 of the Act (interpretation) to the effect that “charges scheme” has the meaning given to it under the new section 29A(1) of the 2002 Act, and substitutes a definition of the Water Industry Commission for that of the Water Industry Commissioner.
315. Sub-paragraph (10) repeals Part I of schedule 1 (the Commissioner) to the Act, since the Water Industry Commissioner is replaced by the Water Industry Commission under Part I of the Act.