

WATER SERVICES ETC. (SCOTLAND) ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Provision of Water and Sewerage Services

Offences

Section 5: Public sewerage system: offences

31. **Section 5** makes provisions prohibiting common carriage and other activities for or in relation to the public sewerage system that parallel those at section 4 in relation to the public water supply system. Subsections (1) to (3) create offences, and these are subject to the exceptions in subsections (4) to (6).
32. Subsections (1) to (3) prohibit common carriage on the public sewerage system (as defined by section 29 of the Act). They also prohibit the making of arrangements for or in relation to the provision of sewerage to, or the disposal of sewage from the premises of another person, except as authorised by a licence.
33. Subsections (4) to (6) set out the circumstances in which the prohibitions in subsections (1) to (3) do not apply. Subsections (7) and (8) provide for Ministers to make regulations specifying other circumstances in which the prohibitions will not apply. Section 34 provides for these regulations to be subject to affirmative procedure in the Parliament. Subsection (9) qualifies the power to make regulations by providing that it can only be exercised where the effect of any such regulations is not prejudicial to the exercise of Scottish Water's core functions regarding the provision of sewerage and disposal of sewage. Subsections (10) and (11) provide for the same range of penalties in respect of the prohibitions concerning the provision of sewerage services as are available at section 4(10) and (11) in respect of water supply services. Subsection (12) provides that any agreement in breach of the prohibitions is unenforceable.