

WATER SERVICES ETC. (SCOTLAND) ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Provision of Water and Sewerage Services

Sewerage nuisance: Code of Practice

Section 25: Sewerage nuisance: code of practice

158. *Section 25* gives the Scottish Ministers powers to issue a code of practice on the assessment, control and minimisation of sewerage nuisance.
159. Subsection (1) gives the Scottish Ministers the power to make an order containing a code of practice on the assessment, control or minimisation of sewerage nuisance. This is referred to as a “sewerage code”.
160. Subsection (2) defines “sewerage nuisance” as any smells and discharges, insects or any other thing emanating from any part of the public sewerage system so as to be prejudicial to health or a nuisance. “Public sewerage system” is defined in section 29 of the Act.
161. Subsection (3) provides that a sewerage code may include guidance on the best practicable means of assessing, controlling and minimising sewerage nuisance, and may set out the circumstances in which a person to whom a sewerage code applies could be regarded as complying or not complying with that code.
162. Subsection (4) contains provisions concerning the interpretation of “best practicable means” for the purposes of subsection (3)(a).
163. Subsection (5) provides that a sewerage code will apply to Scottish Water in respect of its core functions relating to the provision of sewerage and the disposal of sewage and to any other person acting on Scottish Water’s behalf or under its authority in respect of those functions.
164. Subsection (6) requires Scottish Water and any other person to whom the code applies, to comply with that code.
165. Subsection (7) requires the Scottish Ministers and local authorities to publicise a sewerage code.
166. Subsection (8) requires the Scottish Ministers , in advance of making an order containing a sewerage code, to consult Scottish Water, local authorities and any other appropriate persons, on the proposed sewerage code.
167. Subsection (9) exempts from the requirements of sections 25 and 26, those parts of the public sewerage system which are regulated by a permit granted by the Scottish Environment Protection Agency (SEPA) by virtue of regulations made under section 2 of the Pollution Prevention and Control Act 1999. For example, certain sewage treatment works are regulated by permits granted under the Pollution Prevention and

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

Control (Scotland) Regulations 2000. However, subsection (10) reserves the powers of Ministers under other legislation, to make a direction concerning the application of a sewerage code to any part of the public sewerage system. This would, for example, enable Ministers to give directions to SEPA to have regard to the requirements of any sewerage code when granting permits under the 2000 Regulations.