

# **WATER SERVICES ETC. (SCOTLAND) ACT 2005**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Schedule 2: Licences and Compliance: Further Provision***

##### ***Paragraph 7: Warrants***

266. **Paragraph 7** provides for a sheriff or justice of the peace to grant warrants where this is necessary to give effect to the powers of entry conferred at paragraph 5.
267. Sub-paragraph (1) establishes, that a sheriff or justice, where satisfied that evidence provided to them on oath meets at least one of the conditions specified at sub-paragraph (2), can issue a warrant authorising the Commission, or those authorised by it, to enter premises as provided for at paragraph 5(2). As a warrant authorises the use of force if necessary, the power to issue a warrant is qualified to ensure that it is exercised only after there has been proper consideration of the circumstances. Sub-paragraph (2) specifies the conditions at least one of which must be satisfied before a sheriff or justice issues a warrant. In essence these ensure that a warrant will be issued only in circumstances where entry cannot be gained without one, or where entry is required urgently. Sub-paragraph (3) further qualifies the power to issue a warrant in cases where the conditions in sub-paragraphs (2)(a) and (b) are satisfied, by requiring the Commission to have given notice of the intention to apply for a warrant, save where to have done so would defeat the purpose of gaining entry to premises.
268. Sub-paragraph (4) provides that a warrant remains in force until the purposes for which the warrant was issued have been fulfilled, for example when entry to the premises cited in the warrant has been gained.